Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

APPLICATION RECORD

(Application for an (i) Initial Recognition Order (Foreign Main Proceeding) and a (ii) Supplemental Order (Foreign Main Proceeding) returnable June 18, 2020)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
1155 René-Lévesque Blvd. West
41st Floor
Montréal (Québec) H3B 3V2
CANADA

Me Joseph Reynaud
Direct : 514 397 3019
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Me Vincent Lanctôt-Fortier
Direct : 514 397 3176
Email : vlanctotfortier@stikeman.com

Me Simon Ledsham
Direct : 514 397 3385
Email : sledsham@stikeman.com

Counsel for the Applicant

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

Tab	Document
1	Notice of Application, issued June 17, 2020
2	Affidavit of John Frederick dated June 17, 2020
EXHIBIT "A"	Draft Initial Recognition Order (Foreign Main Proceeding)
EXHIBIT "B"	Draft Supplemental Order (Foreign Main Proceeding)
EXHIBIT "C"	*Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*

Tab	Document
EXHIBIT "D"	Declaration of Christopher A. Wilson in support of the Interim DIP Motion
EXHIBIT "E"	*Supplemental Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*
EXHIBIT "F"	Abridged corporate organizational chart of Skillsoft Corporation and its affiliates
EXHIBIT "G"	Skillsoft Canada's information card from the New Brunswick Corporate Affairs Registry
EXHIBIT "H"	Copy of the redacted version of the *Restructuring Support Agreement*
EXHIBIT "I"	Copy of the *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors*
EXHIBIT "J"	Compendium of Materials Filed in the Chapter 11 Cases
EXHIBIT "K"	Consent of Richter Advisory Group Inc. to act as Information Officer
3	Pre-Hearing Brief of the Applicant

TAB 1

Notice of Application, issued June 17, 2020

Cause Number: _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, C. c-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT,
-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS.

NOTICE OF APPLICATION
(FORM 16D)

No. de dossier: _____

COUR DU BANC DE LA REINE DU NOUVEAU-BRUNSWICK

DIVISION DE PREMIÈRE INSTANCE

CIRCONSCRIPTION JUDICIAIRE DE SAINT JOHN

DANS L'AFFAIRE DE LA *LOI SUR LES ARRANGEMENTS AVEC LES CRÉANCIERS DES COMPAGNIES*, L.R.C. (1985), ch. C-36, EN SA VERSION MODIFIÉE

ENTRE :

SKILLSOFT CANADA, LTD.

REQUÉRANTE,

-et-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED ET SKILLSOFT CANADA, LTD.

INTIMÉES.

AVIS DE REQUÊTE
(FORMULE 16D)

TO:

The Respondents

To the Service List
(See Schedule “A” attached hereto)

LEGAL PROCEEDINGS HAVE BEEN COMMENCED BY FILING THIS NOTICE OF APPLICATION.

The Applicant will make an application before the Court at 10 Peel Plaza, Saint John, New Brunswick on the 18th day of June, 2020 at 10:00 A.M. ADT for an order as set out hereunder.

If you wish to oppose this application you must appear at the hearing of the application at the place, date, and time stated, either in person or by a New Brunswick lawyer acting on your behalf.

If you intend to appear on the hearing of the application and wish to present to the Court at that time affidavit or other documentary evidence to support your position, you must serve a copy of such evidence on the Applicant or his lawyer and, with proof of such service, file it in this Court Office prior to the hearing of the application.

If you fail to appear on the hearing of the application **AN ORDER WHICH MAY AFFECT YOU MAY BE MADE IN YOUR ABSENCE.**

You are advised that:

(a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;

DESTINATAIRES :

Intimées

La liste de distribution
(Voir l’Annexe « A » ci-jointe)

PAR LE DÉPÔT DU PRÉSENT AVIS DE REQUÊTE, UNE POURSUITE JUDICIAIRE A ÉTÉ ENGAGÉE.

Le requérant présentera une requête à la Cour au 10 Plaza Peel, Saint John, Nouveau Brunswick le 18 juin 2020 à 10h00 ADT en vue d'obtenir l'ordonnance décrite ci-dessous.

Si vous désirez contester cette requête, vous devrez comparaitre à l'audition de la requête au lieu, à la date et l’heure indiqués, soit en personne ou par l'intermédiaire d'un avocat du Nouveau Brunswick chargé de vous représenter.

Si vous prévoyez comparaitre à l'audition de la requête et désirez présenter à la Cour un affidavit ou une autre preuve documentaire en votre faveur, vous devrez signifier copie de cette preuve au requérant ou à son avocat et la déposer, avec une preuve de sa signification, au greffe de cette Cour avant l'audition de la requête.

Si vous ne comparaissez pas à l'audition de la requête, **UNE ORDONNANCE POUVANT VOUS CONCERNER POURRA ÊTRE RENDUE EN VOTRE ABSENCE.**

Sachez que:

(a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;

(b) the Applicant intends to proceed in the English language; and

(c) if you require the services of an interpreter at the hearing you must advise the Clerk at least 7 days before the hearing.

THIS NOTICE is signed and sealed for the Court of Queen's Bench by _____, Clerk of the Court of Queen's Bench, at 10 Peel Plaza, Saint John, New Brunswick, on the _____ day of June, 2020.

_____
Clerk of the Court of
Queen's Bench

10 Peel Plaza, Saint John, New Brunswick, E2L 3G6

(b) la requérante a l'intention d'utiliser la langue anglaise; et

(c) si vous avez besoin des services d'un interprète à l'audience, vous devez en aviser le greffier au moins 7 jours avant l'audience.

CET AVIS est signé et scellé au nom de la Cour du Banc de la Reine par _____, greffier de la Cour du Banc de la Reine, au 10, plaza Peel, Saint John, New Brunswick, ce _____ juin 2020.

_____
Greffier de la Cour
du Banc de la Reine

10, plaza Peel, Saint John, New Brunswick, E2L 3G6

APPLICATION

On the hearing of this Application, the Applicant intends to apply for the following relief:

1. an Initial Recognition Order (Foreign Main Proceeding) pursuant to the *Companies Creditors' Arrangement Act* ("**CCAA**") substantially in the form attached hereto as Schedule "B";

2. a Supplemental Order (Foreign Main Proceeding) pursuant to the CCAA substantially in the form attached hereto as Schedule "C";

3. an Order that the time for service of the Notice of Application and the Application Record is abridged and validated so that the Application is property returnable on the return date and to dispense with further service thereof pursuant to Rules 1.03, 2.01, 2.02, 3.02, 18.09 and 38.05(2) of the Rules of Court, and section 11 of the CCAA; and

4. such further and other relief as counsel for the Applicant may advise.

The capacity of all persons who are parties to the proceeding are as follows:

1. The Applicant, as foreign representative of the Respondents; and

2. The Respondents are debtor corporations which have each commenced a case (the "**Chapter 11 Cases**") by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware.

The grounds to be argued are as follows:

1. The facts are set out in the affidavit of John Frederick dated June 17, 2020 (the "**Frederick Affidavit**"), and the report of Richter Advisory Group Inc. dated June 17, 2020;

2. The Applicant is the foreign representative of the Respondents within the meaning of section 45(1) of the CCAA;

3. The Chapter 11 Cases should be recognized as a “foreign main proceeding” pursuant to Part IV of the CCAA;

4. A broad stay of proceedings in respect of the Respondents should be granted by the Court should it recognize the Chapter 11 Cases as a “foreign main proceeding” pursuant to Part IV of the CCAA;

5. A charge on the property of the Respondents in Canada should be granted by this Court in favour of the Collateral Agent, for and on behalf of itself, the Administrative Agent, and the other Lenders (as such terms are defined in the DIP Credit Agreement); and

6. The Applicant relies on the CCAA, including sections 11, 44 and seq. under Part IV thereof, and Rules 1.03, 2.01, 2.02, 3.02, 18.09 and 38.05(2) of the *Rules of Court.*

The documentary evidence to be used at the hearing of the application is:

1. Frederick Affidavit and the exhibits in support thereof, dated June 17, 2020;

2. Affidavit of service of Vincent Lanctôt-Fortier sworn to _____;

3. Declaration of *John Frederick In Support of Debtors’ Chapter 11 Petitions and First Day Relief* dated June 14, 2020;

4. Report of Richter Advisory Group Inc., dated June 17, 2020;

5. Consent of Richter Advisory Group Inc. to act as Information Officer dated June 16, 2020; and

6. Such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

DATED at Montreal, Quebec this 17th day of June, 2020.

STIKEMAN ELLIOTT LLP

Per: Stikeman Elliott

Solicitor for the Applicant

Stikeman Elliott LLP
1155 René-Lévesque Blvd. West
41st Floor
Montréal, Quebec H3B 3V2
Canada
Telephone: +1 514 397 3000
Facsimile: +1 514 397 3222

Schedule "A"

Service List

(*See attached*)

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

SERVICE LIST (June 17, 2020)

Applicant Skillsoft Canada, Ltd.	Stikeman Elliott LLP 1155 René-Lévesque Blvd. West 41st Floor Montréal, Québec, H3B 3V2 **Joseph Reynaud** 514-397-3019 jreynaud@stikeman.com **Vincent Lanctôt-Fortier** 514-397-3176 vlanctotfortier@stikeman.com

	Simon Ledsham 514-397-3385 sledsham@stikeman.com Cox & Palmer LLP Brunswick Square 1 Germain Street Suite 1500 Saint John, New Brunswick **Josh J.B. McElman** 506-633-2708 jmcelman@coxandpalmer.com **Nicholas A. Ouellette** 506-633-2733 nouellette@coxandpalmer.com Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10027 United States **Robert Lemons** 212-310-8924 robert.lemons@weil.com **Rachael E. Siegel** 212-310-8565 rachael.siegel@weil.com **Daniel Sotsky** 212-310-8199 daniel.sotsky@weil.com **Katherine Lewis** 212-310-8486 katherine.lewis@weil.com SkillSoft Canada, Ltd. 570 Queen Street, Suite 600 Fredericton, New Brunswick E3B 6Z6
Respondents Skillsoft Corporation Amber Holding Inc. SumTotal Systems LLC MindLeaders, Inc. Accero, Inc. CyberShift Holdings, Inc.	Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10027 United States **Robert Lemons** 212-310-8924

CyberShift, Inc. Evergreen Skills Intermediate Lux S.à r.l. Evergreen Skills Lux S.à r.l. Pointwell Limited SSI Investments I Limited SSI Investments II Limited SSI Investments III Limited Skillsoft Limited Skillsoft Ireland Limited Skillsoft U.K. Limited ThirdForce Group Limited SkillSoft Canada, Ltd.	robert.lemons@weil.com **Rachael E. Siegel** 212-310-8565 rachael.siegel@weil.com **Daniel Sotsky** 212-310-8199 daniel.sotsky@weil.com **Katherine Lewis** 212-310-8486 katherine.lewis@weil.com
Proposed Information Officer Richter Advisory Group Inc.	Fasken Martineau DuMoulin LLP 800 Victoria Square Suite 3500 P.O. Box 242 Montréal, Québec H4Z 1E9 **Marc-André Morin** 514-397-5131 mamorin@fasken.com **Nicolas Mancini** 514-397-5293 nmancini@fasken.com Richter Advisory Group Inc. 1981 McGill College Avenue Suite 1100 Montréal, Québec H3A 0G6 **Andrew Adessky** 514-934-3513 aadessky@richter.ca **Olivier Benchaya** 514-934-8618 obenchaya@richter.ca **Shawn Travitsky** 514.934.3505 STravitsky@richter.ca

Wilmington Savings Fund Society, FSB (as successor to Barclays Bank PLC), as administrative and collateral agent under that certain *First Lien Credit Agreement* dated April 28, 2014 and that certain *Second Lien Credit Agreement* dated April 28, 2014	Seward & Kissel LLP One Battery Park Plaza New York, New York 10004 **Gregg S. Bateman, Esq.** 212-574-1436 bateman@sewkis.com Wilmington Savings Fund Society, FSB 500 Delaware Avenue Wilmington, DE 19801 United States
CIT Bank, N.A., as administrative agent, collateral agent, and accounts bank under that certain *Credit Agreement* dated December 20, 2018	Holland & Knight LLP 200 Crescent Court Suite 1600 Dallas, TX 75201 United States of America **Jay Baker** 214-964-9479 jay.baker@hklaw.com **Samuel D. Pinkston** 214-964-9432 Samuel.Pinkston@hklaw.com

Ad Hoc Group of First Lien Lenders under that certain *First Lien Credit Agreement* dated April 28, 2014	Goodmans LLP Bay Adelaide Centre 333 Bay Street Suite 3400 Toronto, Ontario M5H 2S7 **Chris Armstrong** 416-849-6013 carmstrong@goodmans.ca **Joe Pasquariello** 416-597-4216 jpasquariello@goodmans.ca **Andrew Harmes** 416-849-6923 aharmes@goodmans.ca Stewart McKelvey Suite 1000, Brunswick House 44 Chipman Hill Saint John, New Brunswick E2L 2A9 **Stephen Hutchison, Q.C.** 506-632-2784 shutchison@stewartmckelvey.com **Neal L. Leard** 506-634-6416 nleard@stewartmckelvey.com **Alanna Waberski** 506-632-2792 awaberski@stewartmckelvey.com

Ad Hoc Group of First and Second Lien Lenders under that certain *First Lien Credit Agreement* dated April 28, 2014 and that certain *Second Lien Credit Agreement* dated April 28, 2014, respectively	Osler, Hoskin & Harcourt LLP 100 King Street West 1 First Canadian Place Suite 6200, P.O. Box 50 Toronto, Ontario M5X 1B8 **Marc Wasserman** 416-862-4908 mwasserman@osler.com **Martino Calvaruso** 416-862-6665 mcalvaruso@osler.com **Emily Paplawski** 403-260-7071 EPaplawski@osler.com McInnes Cooper LLP 644 Main St., Suite 400, Blue Cross Building, South Tower Moncton, NB E1C 1E2 Canada **Chris Borden** 506-877-0878 christopher.borden@mcinnescooper.com

SkillSoft Receivables Financing LLC	Weil, Gotshal & Manges LLP 767 Fifth Avenue New York, New York 10027 United States **Robert Lemons** 212-310-8924 robert.lemons@weil.com **Rachael E. Siegel** 212-310-8565 rachael.siegel@weil.com **Daniel Sotsky** 212-310-8199 daniel.sotsky@weil.com **Katherine Lewis** 212-310-8486 katherine.lewis@weil.com SkillSoft Receivables Financing LLC 300 Innovative Way Suite 201 Nashua, New Hampshire 03062 United States

Government and Taxation Authorities

Office of the Superintendent of Bankruptcy Canada	Office of the Superintendent of Bankruptcy Canada Maritime Centre 1505 Barrington Street, 16th Floor Halifax, NS B3J 3K5 Email: ic.osbccaa-laccbsf.ic@canada.ca

Canada Revenue Agency	Canada Revenue Agency Shawinigan-Sud National Verification and Collection Centre Canada Revenue Agency 4695 Shawinigan-Sud Blvd. Shawinigan QC, G9P 5H9 Fax (Ontario and Atlantic Canada proceedings): 1-866-229-0839 AND Canada Revenue Agency Insolvency Division P.O. Box 638, Stn Central 145 Hobsons Lake Drive Halifax, NS B3J 2T5 Fax: 902-421-3130 Email : mike.maclean@cra-arc.gc.ca
Department of Justice Canada	Tax Law Services Department of Justice Canada Atlantic Regional Office Suite 1400, Duke Tower 5251 Duke Street Halifax, Nova Scotia B3J 1P3 **Deanna M. Frappier** 902-426-6107 Deanna.frappier@justice.gc.ca
Office of the Attorney General New Brunswick Government	Office of the Attorney General Legal Services Chancery Place PO Box 6000 Fredericton, New Brunswick E3B 5H1 **Jean-François Dupuis** 506-453-4313 jean-francois.dupuis@gnb.ca
Department of Finance (New Brunswick)	Department of Finance (New Brunswick) Chancery Place 675 King Street Fredericton, NB E3B 1E9 Tel: 506.453.2451 Fax: 506.457.4989 Email: Vicky.Deschenes@gnb.ca justice.comments@gnb.ca

*****

All Service List Emails:

jmcelman@coxandpalmer.com; nouellette@coxandpalmer.com; robert.lemons@weil.com; rachael.siegel@weil.com; daniel.sotsky@weil.com; katherine.lewis@weil.com; mamorin@fasken.com; nmancini@fasken.com; aadessky@richter.ca; obenchaya@richter.ca; mwasserman@osler.com; mcalvaruso@osler.com; carmstrong@goodmans.ca; jpasquariello@goodmans.ca; aharmes@goodmans.ca; STravitsky@richter.ca; jay.baker@hklaw.com; Samuel.Pinkston@hklaw.com; ic.osbccaa-laccbsf.ic@canada.ca; mike.maclean@cra-arc.gc.ca; bateman@sewkis.com; shutchison@stewartmckelvey.com; nleard@stewartmckelvey.com; awaberski@stewartmckelvey.com; Deanna.frappier@justice.gc.ca; jean-francois.dupuis@gnb.ca; Vicky.Deschenes@gnb.ca; justice.comments@gnb.ca; EPaplawski@osler.com; christopher.borden@mcinnescooper.com

Schedule "B"

Draft Initial Recognition Order

(*See attached*)

|Court File No.

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER PART IV OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Skillsoft Canada, Ltd. in its capacity as the foreign representative (the "**Foreign Representative**") for itself and the Respondents (collectively, the "**Chapter 11 Debtors**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for Orders substantially in the form enclosed in the Application Record, was heard this day by the Court of Queen's Bench of New Brunswick (Trial Division), via a teleconference hearing.

ON READING the Notice of Application, the affidavit of John Frederick dated June 17, 2020 and sworn on this day during the teleconference hearing (the "**Frederick Affidavit**"), the preliminary report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Information Officer**") dated June 17, 2020, each filed, and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) is being sought,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), counsel for an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**"), and upon being advised that, other than the secured creditors of the Chapter 11 Debtors and the other persons listed on the Service List filed as Schedule "A" to the Notice of Application, no other persons were served with the Notice of Application:

SERVICE AND DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURTS ORDERS that capitalized terms used herein and not otherwise defined have the meaning given to them in the Frederick Affidavit.

FOREIGN REPRESENTATIVE

3. THIS COURT ORDERS AND DECLARES that the Foreign Representative is the "foreign representative" as defined in section 45 of the CCAA of the Chapter 11 Debtors in respect of the cases commenced by the Chapter 11 Debtors in the United States Bankruptcy Court for the District of Delaware pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**").

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

4. THIS COURT DECLARES that the centre of main interest for each of the Chapter 11 Debtors is in the United States, and that the Foreign Proceeding is hereby recognized as a "foreign main proceeding" as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

5. THIS COURT ORDERS that until otherwise ordered by this Court:

(a) all proceedings taken or that might be taken against any Chapter 11 Debtor under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;

(b) further proceedings in any action, suit or proceeding against any Chapter 11 Debtor are restrained; and

(c) the commencement of any action, suit or proceeding against any Chapter 11 Debtor is prohibited.

NO SALE OF PROPERTY

6. THIS COURT ORDERS that, except with leave of this Court, each of the Chapter 11 Debtors is prohibited from selling or otherwise disposing of:

(a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and

(b) any of its other property in Canada.

GENERAL

7. THIS COURT ORDERS that within five (5) business days from the date of this Order, or as soon as practicable thereafter, the Foreign Representative, with the assistance of the Information Officer, shall cause to be published a notice substantially in the form attached to this Order as Schedule A, once a week for two consecutive weeks, in The Globe and Mail and in the Telegraph Journal.

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Chapter 11 Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

9. THIS COURT ORDERS AND DECLARES that this Order shall be effective as of 12:01 a.m. ADT of the date of this Order.

10. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Chapter 11 Debtors, the Foreign Representative, the Information Officer, the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

DATED this ____ day of June, 2020 at Saint John, New Brunswick

Mr. Justice Darrell J. Stephenson
Court of Queen's Bench – Trial Division

Schedule "A" – Notice of Recognition Order

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD. (the "**Chapter 11 Debtors**")

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

NOTICE OF RECOGNITION ORDERS

PLEASE BE ADVISED that this Notice is being published pursuant to orders of The Court of Queen's Bench of New Brunswick (Trial Division) (the "**Canadian Court**"), granted on June ●, 2020 (the "**Recognition Orders**").

PLEASE TAKE NOTICE that on June 14, 2020, the Chapter 11 Debtors each commenced voluntary reorganization cases (the "**Chapter 11 Cases**") pursuant to chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). In connection with the Chapter 11 Cases, the Chapter 11 Debtors have appointed Skillsoft Canada, Ltd. as their foreign representative of the estates of the Chapter 11 Debtors in Canada (the "**Foreign Representative"**). The Foreign Representative's address is 570 Queen Street, Suite 600, Fredericton, New Brunswick, E3B 6Z6.

AND TAKE NOTICE that the Recognition Orders have been issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36 (the "**CCAA Recognition Proceedings**"), among other things: (i) declaring that the Chapter 11 Cases are recognized as a foreign main proceeding; (ii) granting a stay of proceedings against the Chapter 11 Debtors and their directors and officers in Canada; (iii) prohibiting the commencement of any proceedings against the Chapter 11 Debtors in Canada absent further order of the Canadian Court; (iv) recognizing certain orders granted by the Bankruptcy Court in the Chapter 11 Cases; and (v) appointing Richter Advisory Group Inc. as the Information Officer with respect to the CCAA Recognition Proceedings.

AND TAKE NOTICE that motions, orders and notices filed with the Bankruptcy Court in the Chapter 11 Cases are available at:

http://www.kccllc.net/skillsoft/document/list/5160

and that the Recognition Orders, and any other orders that may be granted by the Canadian Court, are available at:

https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/

AND TAKE NOTICE that counsel for the Foreign Representative is:

Stikeman Elliott LLP
1155 Boulevard René-Lévesque West, Suite 4100, Montréal, Québec, H3B 3V2
Attention: Me Joseph Reynaud / Me Vincent Lanctôt-Fortier
Phone: (514) 397 3019 / (514) 397 3176
Email: JReynaud@stikeman.com / VLanctotFortier@stikeman.com

PLEASE FINALLY NOTE that if you wish to receive copies of the Recognition Orders or obtain further information in respect of the matters set forth in this Notice, you may contact the Information Officer:

Richter Advisory Group Inc.
Richter Tower, 1981 McGill College Ave, Montreal, Quebec H3A 0G6
Attention: Andrew Adessky / Olivier Benchaya
Phone: (514) 934 3513 / (514) 934 8618
Email: aadessky@richter.ca / obenchaya@richter.ca

DATED AT MONTREAL, QUEBEC this [●] day of June, 2020.

Schedule "C"

Draft Supplemental Order

(*See attached*)

Court File No.

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER PART IV OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Skillsoft Canada, Ltd. in its capacity as the foreign representative (the "**Foreign Representative**") of the Chapter 11 Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day by the Court of Queen's Bench of New Brunswick (Trial Division), via a teleconference hearing.

ON READING the Notice of Application, the affidavit of John Frederick dated June 17, 2020 (the "**Frederick Affidavit**"), the preliminary report of Richter Advisory Group Inc., in its capacity as proposed Information Officer (as defined below) dated June 17, 2020, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), counsel for an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**") and on reading the consent of Richter Advisory Group Inc. to act as the information officer:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

INITIAL RECOGNITION ORDER

2. THIS COURT ORDERS that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated **[June 18, 2020]** (the "**Recognition Order**") and in the Frederick Affidavit, as applicable.

3. THIS COURT ORDERS that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. THIS COURT ORDERS that the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

(a) *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* attached as Schedule "A" of this Order;

(b) *Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date* attached as Schedule "B" of this Order;

(c) *Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541* attached as Schedule "C" of this Order;

(d) *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached as Schedule "D" of this Order;

(e) *Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief* attached as Schedule "E" of this Order;

(f) *Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief* attached as Schedule "F" of this Order;

(g) *Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief* attached as Schedule "G" of this Order;

(h) *Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Service, and (IV) Granting Related Relief* attached as Schedule "H" of this Order;

(i) *Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief* attached as Schedule "I" of this Order;

(j) *Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief* attached as Schedule "J" of this Order;

(k) *Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief* attached as Schedule "K" of this Order (the "**Interim DIP Order**");

(l) *Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018* attached as Schedule "L" of this Order;

(m) *Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief* attached as Schedule "M" of this Order;

(n) *Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter* attached as Schedule "N" of this Order;

(o) *Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal* attached as Schedule “O” of this Order; and

(p) *Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal* attached as Schedule “P” of this Order.

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER

5. THIS COURT ORDERS that Richter Advisory Group Inc. (the "**Information Officer**") is hereby appointed as an officer of this Court, with the powers and duties set out herein.

NO PROCEEDINGS AGAINST THE CHAPTER 11 DEBTORS OR THE PROPERTY

6. THIS COURT ORDERS that from the date of the Recognition Order until such date as this Court may order (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Chapter 11 Debtors or affecting their business (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Chapter 11 Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Chapter 11 Debtors, or affecting the Business or the Property, are hereby stayed and

suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Chapter 11 Debtors to carry on any business in Canada which that Chapter 11 Debtor is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

8. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Chapter 11 Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Chapter 11 Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Chapter 11 Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Chapter 11 Debtors, and that the Chapter 11 Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names.

10. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Chapter 11 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Chapter 11 Debtors whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

11. THIS COURT ORDERS that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. THIS COURT ORDERS that the Information Officer:

(a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

(b) shall report to this Court periodically with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;

(c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;

(d) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Chapter 11 Debtors, to the extent that is necessary to perform its duties arising under this Order; and

(e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. THIS COURT ORDERS that the Chapter 11 Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Chapter 11 Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-

operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. THIS COURT ORDERS that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

15. THIS COURT ORDERS that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. THIS COURT ORDERS that the Information Officer may provide any creditor of a Chapter 11 Debtor with information provided by the Chapter 11 Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Chapter 11 Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Chapter 11 Debtors may agree.

17. THIS COURT ORDERS that Canadian counsel to the Chapter 11 Debtors, the Information Officer and counsel to the Information Officer shall be paid by the Chapter 11 Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Chapter 11 Debtors are hereby authorized and directed to pay the accounts of Canadian counsel to the Chapter 11 Debtors, the Information Officer and counsel for the Information Officer forthwith upon receipt.

18. THIS COURT ORDERS that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Trial Division of the Court of

Queen's Bench of New Brunswick, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. THIS COURT ORDERS that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of $150,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs **[21]** and **[23]** hereof.

INTERIM FINANCING

20. THIS COURT ORDERS that the Collateral Agent (as such term is defined in the DIP Credit Agreement), for and on behalf of itself, the Administrative Agent (as such term is defined in the DIP Credit Agreement), and the other Lenders (as such term is defined in the DIP Credit Agreement) shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lenders' Charge**") on the Property in Canada as security for the Obligations (as such term is defined in the DIP Credit Agreement), which DIP Lenders' Charge shall be consistent with the liens and charges created by the Interim DIP Order, provided however that the DIP Lenders' Charge, with respect to the Property in Canada, shall have the priority set out in paragraphs **[21]** and **[23]** hereof, and further provided that the DIP Lenders' Charge shall not be enforced except with leave of this Court, it being understood that the Collateral Agent shall be entitled to deliver a Termination Declaration (as defined in the Interim DIP Order) in accordance with the Interim DIP Order without obtaining leave of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. THIS COURT ORDERS that the priorities of the Administration Charge and the DIP Lenders' Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $150,000); and

Second – DIP Lenders' Charge.

22. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected

subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

23. THIS COURT ORDERS that the Charges (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

24. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Chapter 11 Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Charges, unless the Chapter 11 Debtors also obtain the prior written consent of the Information Officer and the Lenders.

25. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership order made pursuant to such applications; (iii) the filing of any assignment for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Chapter 11 Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by a Chapter 11 Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by the Chapter 11 Debtors to the Chargees pursuant to this Order and the DIP Documents, and the granting of the Charges, do not and will not constitute a preference, fraudulent conveyance, transfer at

undervalue, oppressive conduct, or other challengeable or voidable transaction under any applicable law.

26. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Chapter 11 Debtor's interest in such real property leases.

SERVICE AND NOTICE

27. The Information Officer shall: i) without delay, publish in the Globe and Mail, National Edition and the Telegraph Journal a notice containing the information prescribed under the CCAA; and ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than $1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

28. The Information Officer shall create a list of names and contact information, including Email addresses, of all known creditors who have a claim against the Applicant of more than $1000, and all other parties to this proceeding (the "**E-Service List**"). The Information Officer shall exercise best efforts to ensure the E-Service list is correct and up-to-date, and shall make the E-Service List available on its website at:

https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/

29. The Chapter 11 Debtors, the Foreign Representative and the Information Officer shall be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing. Electronic transmission of this Order, any other materials and orders in these proceedings, or any notices or other correspondence, shall be deemed to be effective substituted service in accordance with Rule 18.04 of the *Rules of Court*, provided the party serving the documents

prepares an Affidavit of Service containing the particulars of the service, including the E-Service List served, the Email addresses to which the documents were sent and the time of the Emailing.

30. The Chapter 11 Debtors, the Foreign Representative and the Information Officer, and any party who has appeared in these proceedings through counsel may serve any court materials in these proceedings by e-mailing a PDF or an HTML link of such materials to counsels' email addresses as recorded on the service list from time to time, and the Information Officer shall post a copy of such materials on its website at **https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/** in a manner that facilitates any interested party to easily locate court documents filed in this proceeding. The documents to be posted on the Information Officer's website is not intended to be exhaustive but shall include:

(a) Notices of application/notices of motion;

(b) All affidavits, including exhibits, and other material filed by an applicant/moving party with respect to this application or any motion;

(c) All responding affidavits, including exhibits, and other material delivered in response to this application or any motions by all respondents;

(d) All facta, briefs, and written arguments delivered by any party to this application or any within motion;

(e) Books of authorities;

(f) All court reports filed by the Information Officer or the Foreign Representative;

(g) All Court Orders, Reasons for Decision, and Endorsements;

(h) The current version of the E-Service List; and

(i) Any document that requires dissemination to the interested parties, such as proof of claims forms, notices of creditor meeting, plan disclosure statements, plans of reorganization and voting letters as requested by the Applicant, the Foreign Representative or the Information Officer.

31. The Information Officer shall maintain the above information on its website for a period of at least six months after the completion of this proceeding.

GENERAL

32. THIS COURT ORDERS that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

33. THIS COURT ORDERS that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

34. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Chapter 11 Debtors, the Foreign Representative, the Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Chapter 11 Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Chapter 11 Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

35. THIS COURT ORDERS that each of the Chapter 11 Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

36. THIS COURT ORDERS that any materials and/or exhibits subject to a sealing order granted by the U.S. Bankruptcy Court and which have been filed in this Court's record shall be kept confidential and *under seal* until further order from this Court.

37. THIS COURT ORDERS that the Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network and adopted by the U.S. Bankruptcy Court and attached as Schedule "Q" hereto is adopted by this Court for the purposes of these recognition proceedings.

38. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Chapter

11 Debtors, the Foreign Representative, the Information Officer, the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

39. THIS COURT ORDERS that this Order shall be effective as of 12:01 a.m. ADT on the date of this Order.

DATED this ___ day of June, 2020 at Saint John, New Brunswick

Mr. Justice Darrell J. Stephenson
Court of Queen's Bench – Trial Division

Schedule "A"

Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief

(See attached)

Docket #0073 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20–11532 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 02-0496115	:	

In re:	:	**Chapter 11**
AMBER HOLDING INC.,	:	**Case No. 20–11534 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 26-4590335	:	

In re:	:	**Chapter 11**
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20–11533 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 42-1607228	:	

In re:	:	**Chapter 11**
MINDLEADERS, INC.,	:	**Case No. 20–11535 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 98-0536072	:	

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In re:	:	**Chapter 11**
	:	
ACCERO, INC.,	:	**Case No. 20–11536 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 26-1744684	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20–11538 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 22-3482109	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT, INC.,	:	**Case No. 20–11537 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 11-2530586	:	
In re:	:	**Chapter 11**
	:	
POINTWELL LIMITED,	:	**Case No. 20–11540 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS I LIMITED,	:	**Case No. 20–11539 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS II LIMITED,	:	**Case No. 20–11541 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS III LIMITED,	:	**Case No. 20–11542 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT LIMITED,	:	**Case No. 20–11543 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20–11544 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
THIRDFORCE GROUP LIMITED,	:	**Case No. 20–11545 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SKILLSOFT U.K. LIMITED,	:	**Case No. 20–11546 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT CANADA, LTD.,	:	**Case No. 20–11547 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[1] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), for an entry of an order (i) directing joint administration of their chapter 11 cases for procedural purposes only, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant

[1] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 20-11532 (MFW).

3. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective estates.

4. The caption of the jointly administered cases shall read as follows:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

5. A docket entry shall be made in each of the above-captioned cases substantially as follows:

> An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc. (U.S.); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The docket in Skillsoft Corporation, Case No. 20-11532 (MFW) should be consulted for all matters affecting this case.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "B"

Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 12**

ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT *NUNC PRO TUNC* TO THE PETITION DATE

Upon the application (the "**Application**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 156(c) of title 28 of the United States Code, section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), requesting entry of an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent ("**Claims and Noticing Agent**") in the Debtors' chapter 11 cases, which will include KCC assuming full responsibility for the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

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distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Debtors' chapter 11 cases, all as more fully set forth in the Application; and upon the Jordan Declaration, filed contemporaneously with and attached to the Application as Exhibit B; and the Debtors having estimated that there are in excess of 10,000 notice parties in these chapter 11 cases; and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Application, the record of the Hearing and all of the proceedings had before the Court is in the best interests of the Debtors, their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Application

establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Debtors are authorized to retain KCC as Claims and Noticing Agent effective *nunc pro tunc* to the Petition Date under the terms of the Engagement Agreement.

2. KCC is authorized and directed to perform noticing services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (collectively, the "**Claims and Noticing Services**").

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtors are authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate

documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee for the District of Delaware, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Engagement Agreement or monthly invoices; provided that the parties may seek resolution of the matter from the Court if resolution is not achieved.

8. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates.

9. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

10. The Debtors shall indemnify KCC under the terms of the Engagement Agreement, as modified pursuant to this Order.

11. KCC shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court.

12. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Order.

13. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution or reimbursement.

14. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and the Debtors' attorney and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' attorney.

15. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

16. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

17. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

18. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

19. KCC shall not cease providing claims processing services during the chapter 11 cases for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

21. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "C"

Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 11**

ORDER PURSUANT TO 11 U.S.C. § 105 ENFORCING THE PROTECTIONS OF 11 U.S.C. §§ 362, 365, 525, AND 541

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), pursuant to section 105 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order enforcing the protections of sections 362, 365, 525, and 541 of the Bankruptcy Code, to aid in the administration of these chapter 11 cases and to help ensure that the Debtors' global business operations are not disrupted, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. Pursuant to section 362 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 1**), the commencement of these chapter 11 cases shall operate as a stay, applicable to all persons (including individuals, partnerships, corporations, and all those acting for or on their behalf) and all foreign or domestic governmental units (and all those acting for or on their behalf) of:

   a. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of the Debtors' chapter 11 cases, or to recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

   b. the enforcement, against the Debtors or against property of their estates, of a judgment obtained before the commencement of the Debtors' chapter 11 cases;

   c. any act to obtain possession of property of the estates or of property from the estates or to exercise control over property of the Debtors' estates;

d. any act to create, perfect, or enforce any lien against property of the Debtors' estates;

e. any act to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose before the commencement of the Debtors' chapter 11 cases;

f. any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

g. the setoff of any debt owing to the Debtors that arose before the commencement of these chapter 11 cases; and

h. the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of the Debtors for a taxable period the bankruptcy court may determine.

3. This Order shall not affect the exceptions to the automatic stay contained in section 362(b) of the Bankruptcy Code or the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code.

4. Pursuant to section 365 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 2**), and notwithstanding any contract or lease provision or applicable law, an executory contract or unexpired lease of the Debtors may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the Debtors' chapter 11 cases solely because of a provision in such contract or lease that is conditioned on (i) the insolvency or financial condition of any or all Debtors or (ii) the commencement of the Debtors' chapter 11 cases.

5. Pursuant to section 525 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 3**), a foreign or domestic governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, the Debtors or the

Debtors' affiliates on account of (i) the commencement of the Debtors' chapter 11 cases; (ii) the Debtors' insolvency; or (iii) the fact that the Debtors have not paid a debt that is dischargeable in the Debtors' chapter 11 cases.

6. Pursuant to section 541 of the Bankruptcy Code, (a copy of the text of which is annexed hereto as **Exhibit 4**), any interest of the Debtors in property becomes property of the estates, notwithstanding any provision in any agreement, transfer instrument, or applicable nonbankruptcy law, that: (a) restricts or conditions transfer of such interest by the Debtors, or (b) is conditioned on the insolvency or financial condition of the Debtors or on the commencement of the Debtors' chapter 11 cases, and that effects or gives an option to effect a forfeiture, modification, or termination of the Debtor's interest in property. Any purported restriction, condition, forfeiture, modification, or termination is void *ab initio*.

7. This Order is intended to be declarative of and coterminous with, and shall neither abridge, enlarge nor modify, the rights and obligations of any party under sections 362, 365, 525, and 541 of the Bankruptcy Code or any other provision of the Bankruptcy Code.

8. The Debtors are authorized to take all steps necessary to carry out this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Section 362 of the Bankruptcy Code

§ 362. Automatic Stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a)—

(A) of the commencement or continuation of a civil action or proceeding—

(i) for the establishment of paternity;

(ii) for the establishment or modification of an order for domestic support obligations;

(iii) concerning child custody or visitation;

(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

(v) regarding domestic violence;

(B) of the collection of a domestic support obligation from property that is not property of the estate;

(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;

(3) under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title;

(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money

judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;
[(5) Repealed. Pub. L. 105–277, div. I, title VI, § 603(1), Oct. 21, 1998, 112 Stat. 2681–866;]
(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;
(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(8) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units;
(9) under subsection (a), of—

> **(A)** an audit by a governmental unit to determine tax liability;
> **(B)** the issuance to the debtor by a governmental unit of a notice of tax deficiency;
> **(C)** a demand for tax returns; or
> **(D)** the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).

(10) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property;
(11) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument;
(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under chapter 537 of title 46 or section 109(h) of title 49, or under applicable State law;
(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under chapter 537 of title 46;
(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;
(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution;
(16)under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act;
(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in

section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;
(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;

(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;
(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;

(22) subject to subsection (*l*), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;
(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;
(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;
(25) under subsection (a), of—

(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;

(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);

(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and

(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B)on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors, if—

(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

(aa) if a case under chapter 7, with a discharge; or

(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

(4)

(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors if—

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization;

(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—

(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(B) the debtor has commenced monthly payments that—

(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

(e)

(1) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances.

(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) such 60-day period is extended—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(f) Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

(h)

(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.

(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

(k)

(1) Except as provided in paragraph (2), an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.

(l)

(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

(3)

(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

(5)

(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

(m)

(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

(2)

(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.

(n)

(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

(A) is a debtor in a small business case pending at the time the petition is filed;

(B)was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the

evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

(2) Paragraph (1) does not apply—

(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition if—

(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.

(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.

Exhibit 2

Section 365 of the Bankruptcy Code

§ 365. Executory contracts and unexpired leases

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)

(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title;

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement; or

(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.

(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1)

(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

(3) such lease is of nonresidential real property and has been terminated under applicable nonbankruptcy law prior to the order for relief.

(d)

(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, 12, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(4) (A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(i) the date that is 120 days after the date of the order for relief; or

(ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

(5) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(e)

(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(A)

(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)

(1) Except as provided in subsections (b) and (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsections (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112, 1208, or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112, 1208, or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)

(1)

(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease,

but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

(D) In this paragraph, "lessee" includes any successor, assign, or mortgagee permitted under the terms of such lease.

(2)

(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(i)

(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

(l) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(10), leases of real property shall include any rental agreement to use real property.

(n)

(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

(i) the duration of such contract; and

(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

(A) the trustee shall allow the licensee to exercise such rights;

(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

(C) the licensee shall be deemed to waive—

(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract or any agreement supplementary to such contract—

(i) perform such contract; or

(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to a Federal depository institutions regulatory agency (or predecessor to such agency) to maintain the capital of an insured depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.

(p)

(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

(2)

(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.

Exhibit 3

Section 525 of the Bankruptcy Code

§ 525. Protection Against Discriminatory Treatment

(a) Except as provided in the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943, a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.

(c)

(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a student grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(2) In this section, "student loan program" means any program operated under title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.

Exhibit 4

Section 541 of the Bankruptcy Code

§ 541. Property of the Estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include—

(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor;

(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case;

(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.),[1] or any accreditation status or State licensure of the debtor as an educational institution;

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

(A)

(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 544(a)(3) of this title; or

(B)

(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 542 of this title;

(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(6) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(7) any amount—

(A) withheld by an employer from the wages of employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

(B) received by an employer from employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title;

(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b);

(9) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor), unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition; or

(10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(h) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,225. Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.

(c)

(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.

(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

Schedule "D"

Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505

(See attached)

Docket #0079 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 5**

ORDER AUTHORIZING SKILLSOFT CANADA, LTD. TO ACT AS FOREIGN REPRESENTATIVE ON BEHALF OF THE DEBTORS' ESTATES PURSUANT TO 11 U.S.C. § 1505

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for an order pursuant to section 1505 of title 11 of the United States Code (the "**Bankruptcy Code**"), authorizing Skillsoft Canada, Ltd. ("**Skillsoft Canada**") to act as Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding, as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtor's corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted as set forth herein.

2. Skillsoft Canada is authorized, pursuant to section 1505 of the Bankruptcy Code, to act as the Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding. As Foreign Representative, Skillsoft Canada shall be authorized and have the power to act in any way permitted by applicable foreign law, including, but not limited to (i) seeking recognition of these chapter 11 cases and this Court's orders, including the DIP Order, in the Canadian Recognition Proceeding, (ii) requesting that the Canadian Court lend assistance to this Court in protecting the property of the Debtors' estates, and (iii) seeking any other appropriate relief from the Canadian Court that Skillsoft Canada deems just and proper in the furtherance of the protection of the Debtors' estates.

3. This Court requests the aid and assistance of the Canadian Court to recognize these chapter 11 cases as a "foreign main proceeding" and Skillsoft Canada as a "foreign representative" pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order and any other orders for which recognition is sought.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "E"

Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 10**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing, but not directing, the Debtors to (a) continue using their existing cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank account (the "**Bank Accounts**") at their existing bank (the "**Banks**") consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Intercompany Transactions between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as set forth herein but otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse cash in accordance with the Cash Management System and Ordinary Course Intercompany Transactions, except as otherwise set forth herein; and to make ordinary course changes to their Cash Management System, provided that such changes do not have a material adverse effect on the Debtors' estates.

3. The Debtors in their capacity as Originators are authorized, but not directed to continue complying with the terms of the AR Facility Agreement and the AR Purchase Agreement in the ordinary course of business.

4. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Interim Order), the Business Forms, as well as checks and other documents related to the Debtor Bank Accounts existing immediately before the Petition Date; *provided* that once the Debtors' existing Business Forms, checks, and other related documents have been used, the Debtors shall use reasonable efforts, when reordering checks or reprinting Business Forms or other related documents, to require the designation "Debtor in Possession" and the corresponding bankruptcy case number on such checks, Business Forms, and related documents; *provided further* that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend and the bankruptcy case number on such items within 10 business days of the date of entry of this Interim Order.

5. Notwithstanding anything to the contrary in the U.S. Trustee Operating Guidelines, the Debtors are further authorized to: (i) designate, maintain and continue to use any

or all of their existing Debtor Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including through checks, wire transfers, ACH transfers, and other debits in the ordinary course and in a manner consistent with prepetition practices; (iii) pay any Bank Fees or other charges associated with the Debtor Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (iv) treat their prepetition Debtor Bank Accounts for all purposes as debtor in possession accounts.

6. The Debtors are authorized, subject to the reasonable consent of Required DIP Lenders (as defined in the DIP Orders (defined below)), to open new bank accounts and enter into any ancillary agreements, including new deposit account control agreements, related to the foregoing; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Debtor Bank Account as if it had been listed on **Appendix 1** to this Interim Order under the heading "Debtor Bank Accounts"; *provided further* that such opening of an account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within ten (10) business days to the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the administrative agent for the Debtors' prepetition and proposed postpetition financing lenders; and *provided further* that the Debtors shall only open any such new Debtor Bank Account at a bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement.

7. Each Bank is authorized to accept and rely upon, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated before, on, or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of this Court (but such check, draft, wire, or other transfer shall only be honored to the extent of available funds). No Bank shall incur any liability for relying upon any Debtor's instruction as to which checks, drafts, wires, or ACH transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire, or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Debtor Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue, and payee information, those checks that are to be dishonored by such Bank (the "**List of Checks to be Dishonored**"), which checks may include those issued after the Petition Date as well as those issued before the Petition Date that are not to be honored or paid according to any order of this Court, and each Bank may honor all other checks. Except for those checks, drafts, wires, or ACH transfers that are authorized or required to be honored under an order of this Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Debtor Bank Account before the Petition Date but presented to such Bank for payment after the Petition Date. The Debtors shall include on the List of Checks to be Dishonored: (i) all pre-petition checks, drafts or other payment item issued on a Debtor Bank Account before the Petition Date that remain outstanding as of the Petition Date, other than those authorized or required to be honored under an order of this Court and (ii) all postpetition checks paying

prepetition obligations, other than those that are authorized or required to be honored under an order of this Court.

8. Nothing contained herein shall prevent the Debtors from closing any Debtor Bank Accounts as they may deem necessary and appropriate, if consistent with the terms of any postpetition financing agreements and any orders of this Court relating thereto. Any relevant Bank is further authorized to honor the Debtors' requests to close such Debtor Bank Accounts, and the Debtors shall give notice of the closure of any account within ten (10) business days to the U.S. Trustee, counsel to any statutory committee appointed in these chapter 11 cases and counsel to the DIP Lenders (as defined in the DIP Orders).

9. For all Banks at which the Debtors maintain Debtor Bank Accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen (15) business days of the date of entry of this Interim Order, the Debtors shall (i) contact each such Bank, (ii) provide each such Bank with each of the Debtors' employee identification numbers, and (iii) identify each of their Debtor Bank Accounts held at such Banks as being held by a debtor in possession in a chapter 11 case.

10. For Banks that are not a party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors shall use their good faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the Office of the United States Trustee within forty five (45) days of the date of entry of this Order.

11. The Debtors are authorized, but not directed, to continue engaging in Ordinary Course Intercompany Transactions in connection with the Cash Management System in the ordinary course of business (including with respect to netting or setoffs permitted by section 553 of the Bankruptcy Code), but subject to the terms of the Debtors' DIP Credit

Agreement (as defined in the DIP Orders); *provided, however*, that before the final order on this Motion, transfers from the Debtors to Non-Debtor Affiliates shall not exceed $2 million.

12. The Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (i) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (ii) prohibited or restricted by the terms of the DIP Orders. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid net postpetition Intercompany Transactions made in the ordinary course between Debtors shall be accorded administrative expense status, junior to any adequate protection claims granted under the DIP Orders.

13. Unless prohibited by applicable law, transfers made by a Debtor to a Non-Debtor Affiliate pursuant to a postpetition Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that any transfers by a Non-Debtor Affiliate to a Debtor will reduce the claim against the Non-Debtor Affiliate and any such transfer shall be subject to the terms of the DIP Credit Agreement.

14. The Debtors shall maintain accurate and detailed records of all transactions and transfers, including Intercompany Transactions, within the Cash Management System, so that all postpetition transfers and transactions are readily ascertainable, traceable, recorded properly, and distinguished between prepetition and postpetition transactions.

15. The Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, and charge back returned items, whether such items were deposited prepetition or postpetition, to the Debtor Bank Accounts in the ordinary course. Any such

postpetition fees, costs, charges, and expenses, including the Bank Fees, or charge-backs are not so paid shall be entitled to priority as administrative expense pursuant to section 503(b)(1) of the Bankruptcy Code.

16. The Debtors shall have forty-five (45) calendar days (or such additional time as the U.S. Trustee may agree to) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

17. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; (iii) the Budget (as defined in the DIP Orders); and (iv) the terms

and conditions set forth in the Restructuring Support Agreement. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

19. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

20. Notwithstanding entry of this Interim Order, nothing herein shall (a) create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party or (b) alter or impair the validity, continuation, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

22. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

23. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

24. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington,

Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

25. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

26. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (XXXX)	Account Type
Debtor Bank Accounts				
1	Skillsoft Corporation	Bank of America	XXXX9979	Operating
2	SumTotal Systems LLC	Silicon Valley Bank	XXXX2718	Lockbox
3	SumTotal Systems LLC	Wells Fargo Bank	XXXX4963	Lockbox
4	SumTotal Systems LLC	Silicon Valley Bank	XXXX2703	Operating
5	Skillsoft Canada Limited	Bank of America	XXXX4203	Operating
6	Skillsoft Canada Limited	Bank of America	XXXX4104	Operating
7	Skillsoft Limited	Bank of America	XXXX6034	Operating
8	Pointwell Limited	Bank of America	XXXX3019	Operating
9	Skillsoft Ireland Limited	Bank of America	XXXX1011	Operating
10	Skillsoft Ireland Limited	Bank of America	XXXX1029	Operating
11	Thirdforce Group Limited	Bank of America	XXXX1016	Operating
12	Skillsoft U.K. Limited	Bank of America	XXXX7017	Operating
13	Skillsoft U.K. Limited	Bank of America	XXXX7025	Operating
14	Skillsoft U.K. Limited	Bank of America	XXXX7033	Operating
15	Skillsoft U.K. Limited	Bank of America	XXXX7041	Operating
Non-Debtor Bank Accounts				
1	MindLeaders Ireland Learning Limited	Bank of America	XXXX4010	Operating
2	Skillsoft NETg GmbH	Bank of America	XXXX3013	Operating
3	Skillsoft NETg GmbH	Bank of America	XXXX0018	Operating
4	Skillsoft France SARL	Bank of America	XXXX1013	Operating

5	Skillsoft France SARL	Bank of America	XXXX1021	Operating
6	Skillsoft Group France SAS	Bank of America	XXXX8019	Operating
7	SumTotal Systems France SAS	Bank of America	XXXX1014	Operating
8	SumTotal Systems France SAS	Bank of America	XXXX1022	Operating
9	Skillsoft Digital (France) SAS	Bank of America	XXXX9018	Operating
10	SumTotal Systems Canada Limited	Bank of America	XXXX4106	Operating
11	SumTotal Systems Canada Limited	Bank of America	XXXX4205	Operating
12	SumTotal Systems U.K. Limited	Bank of America	XXXX2019	Operating
13	SumTotal Systems U.K. Limited	Bank of America	XXXX2035	Operating
14	SumTotal Systems U.K. Limited	Bank of America	XXXX2027	Operating
15	SumTotal Systems ANZ Pty. Ltd	Bank of America	XXXX3010	Operating
16	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3015	Operating
17	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3023	Operating
18	SumTotal Systems India Private Limited	CitiBank	XXXX25555	Operating
19	SumTotal Systems India Private Limited	CitiBank	XXXX45555	Operating
20	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1011	Operating
21	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1029	Operating
22	SumTotal Systems Japan	Mitsuisumitomo	XXXX7719	Operating
23	SumTotal Systems Japan	Mitsuisumitomo	XXXX3415	Operating
24	Skillsoft Software Services India Private Limited	Bank of America	XXXX7059	Operating
25	Skillsoft Software Services India Private Limited	Bank of America	XXXX7067	Operating

26	Skillsoft New Zealand Limited	Bank of America	XXXX1600	Operating
27	Element K India Private Limited	Bank of America	XXXX3012	Operating
28	Skillsoft (China) Ltd.	ICBC	XXXX1732	Operating
29	Skillsoft (China) Ltd.	ICBC	XXXX1821	Operating
30	Skillsoft (China) Ltd.	ICBC	XXXX2705	Operating

Schedule "F"

Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief

(See attached)

Docket #0076 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 7**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an interim order (the "**Interim Order**") (i) authorizing, but not directing, the Debtors to (a) continue maintaining their Insurance Policies and Programs and (b) honor their Insurance Obligations in the ordinary course of business

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations, including amounts owed to the Insurance Service Providers, (c) modify the automatic stay if necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Insurance Obligations (including amounts owed to the Insurance Service Providers) arising under or relating to the Insurance Policies and Programs,

including any new Insurance Policies and Programs, without regard to whether such Insurance Policies and Programs are listed on **Exhibit C** to the Motion, and without regard to whether accruing or relating to the period before or after the Petition Date, on an interim basis without further order of the Court.

3. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs in accordance with practices and procedures that were in effect before the Petition Date.

4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including through the purchase or renewal of new or existing Insurance Policies and Programs.

5. The automatic stay is modified solely to the extent necessary to permit the Debtors' employees to proceed with any valid claims they may have under the Workers' Compensation Program, provided that any recovery on account of such claims is limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Insurance Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Insurance Obligations, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

8. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted here, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Approved Budge (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

15. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "G"

Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 3**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing the Debtors to pay the Taxes and Fees, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Taxes and Fees as such obligations become due to the Authorities, in amounts not to exceed $1,100,000.00 in the aggregate on an interim basis.

3. The Debtors are further authorized, but not directed, to continue paying the Taxes and Fees in accordance with practices and procedures that were in effect before the Petition Date.

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Taxes and Fees are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other

order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Taxes and Fees as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-Debtor affiliate except as permitted by the Approved Budget.

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any

agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

11. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

12. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com),

Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

13. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

14. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "H"

Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 6**

INTERIM ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order (i) approving the Debtors' proposed form of adequate assurance of payment for Utility Providers, (ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting Utility Providers from altering, refusing, or discontinuing utility service on account of the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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commencement of these chapter 11 cases and/or outstanding prepetition invoices, and (iv) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. Absent compliance with the procedures set forth in the Motion and this Interim Order, the Debtors' utility providers (the "**Utility Providers**") are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11

cases and/or any unpaid prepetition charges and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

3. Funds held in the Adequate Assurance Account and any Adequate Assurance Deposit shall be returned to the Debtors upon the effective date of a chapter 11 plan for the Debtors or such other time as these cases may be closed without further Court order; provided, that there are no outstanding disputes related to postpetition payments due.

4. The Adequate Assurance Deposit, in conjunction with the Debtors' cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrate the Debtors' ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**") and constitute sufficient adequate assurance to the Utility Providers.

5. The following Adequate Assurance Procedures are hereby approved in the entirety on an interim basis:

a. The Debtors will mail a copy of the Motion and this Interim Order, which include the Adequate Assurance Procedures, to each Utility Provider within two (2) business days after entry of this Interim Order.

b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within twenty (20) calendar days after entry of this Interim Order; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value upon the agreement of such Utility Provider.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by all of the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A.,

920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases and/or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve such its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but is not limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider is prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to

any of the Debtors by the Utility Provider, or any objections to the Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of this Interim Order, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

6. The Debtors are authorized, in their sole discretion, to amend the utility service list attached as **Exhibit B** to the Motion (the "**Utility Service List**") to add or delete any Utility Provider, and this Interim Order shall apply to any Utility Provider that is subsequently added to the Utility Service List. Any such amended Utility Service List shall be filed with the Court.

7. The inclusion of any entity in, or the omission of any entity from, the Utility Service List shall not be deemed an admission by the Debtors that such entity is or is not a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of this Interim Order on the subsequently added Utility Provider and deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider, and any such subsequently added entities shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

9. The Debtors may terminate the services of any Utility Provider and are immediately authorized to reduce the Adequate Assurance Deposit by the amount held on account of such terminated Utility Provider.

10. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

14. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

15. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq.

(katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon: (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020** at **4:00 p.m. (prevailing Eastern Time)**.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

17. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "I"

Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 9**

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for an order (i) authorizing the Debtors to pay the prepetition Trade Claims in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Bankruptcy Rules, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

1. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), 363(c), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay, in the ordinary course of business, some or all of the prepetition Trade Claims of Trade Creditors in full; provided that the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable between the Petition Date and the date that a final order on the Motion is entered, in an aggregate amount not to exceed $18.0 million, unless otherwise ordered by this Court; and in all cases subject to the following:

(a) The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to this Interim Order.

(b) Before making a payment to a creditor under this Interim Order, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for

less than their face amount without further notice or hearing.

2. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code.

3. The Debtors are authorized, but not directed, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice; *provided* that such actions are in compliance with, and not prohibited by, the terms of the DIP Orders (as defined below) and other documentation governing the Debtors' use of cash collateral and postpetition financing facilities, including, without limitation, the DIP Credit Agreement (as defined in the DIP Orders).

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are further authorized, but not directed, to issue postpetition checks, or to effect postpetition funds transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders).

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

10. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

11. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

12. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

13. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

14. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

15. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "J"

Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 4**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs in the ordinary course of business as provided in the Motion and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations, including processing and administrative fees, on account of the Compensation and Benefits Programs in amounts not to exceed $2,665,614 in the aggregate on an interim basis; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay or honor any prepetition obligations on account of the Non-Insider Employee Incentive Programs.

3. Payments for prepetition obligations on account of Compensation or Paid Time Off each shall not exceed the statutory caps set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

4. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

5. The Debtors are authorized, but not directed, to continue to administer the Compensation and Benefits Programs in the ordinary course of business; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay any obligations arising under the Non-Insider Employee Incentive Programs.

6. The Debtors are authorized, but not directed, to modify, change, and discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

7. Nothing herein shall be deemed to (a) authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code, including any bonus or severance obligations, or (b) authorize the Debtors to cash out unpaid Paid Time Off upon termination of an Employee, unless applicable nonbankruptcy law requires such payment; provided that nothing in this Interim Order shall prejudice the Debtors' ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

8. Each of the Banks at which the Debtors maintain their accounts relating to the payment of obligations on account of the Compensation and Benefits Programs are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of obligations in connection with the Compensation and Benefits Programs as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

10. The payroll processors are authorized to honor and pay all checks presented for payment and electronic payment requests relating to the Compensation and Benefits Programs to the extent directed by the Debtors in accordance with this Interim Order, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

11. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively,

the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-debtor affiliate except as permitted by the Budget.

12. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

13. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

15. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

16. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

17. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)**

and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

18. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

19. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "K"

Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief

(See attached)

Docket #0086 Date Filed: 06/16/2020

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
SKILLSOFT CORPORATION, *et al.*[1]	)	Case No. 20-11532 (MFW)
	)	(Jointly Administered)
Debtors.	)	**Re: Docket No. 19**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (IV) MODIFYING AUTOMATIC STAY, (V) SCHEDULING FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") in the above captioned chapter 11 cases (collectively, the "**Cases**") for entry of an interim order (this "**Interim Order**"), pursuant to sections 105, 361, 362, 363, 364, 507, and 552 of title 11 of the United States Code (as amended, the "**Bankruptcy Code**"), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rules 2002-1(b), 4001-2, 9006-1, and 9013 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), seeking entry of this interim order (this "**Interim Order**") and:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion or the DIP Credit Agreement (defined below), as applicable.

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(i) authorizing Skillsoft Corporation, in its capacity as borrower (the "**Borrower**"), to obtain postpetition financing consisting of a senior secured super-priority term loan credit facility in the aggregate amount of $60,000,000 (such facility, the "**DIP Facility**" and the loans thereunder, the "**DIP Loans**") and authorizing each of the other Debtors (the "**Guarantors**") to guarantee unconditionally, on a joint and several basis, the Borrower's obligation in connection with the DIP Facility, each in accordance with the terms and conditions set forth in the DIP Credit Agreement (defined below) and the terms and conditions set forth in the DIP Documents (defined below), upon entry of the Interim Order and subject to the terms of the Final Order (as defined in the DIP Credit Agreement);

(ii) authorizing the Debtors to enter into that certain Senior Secured Super-Priority Debtor-In-Possession Credit Agreement substantially in the form attached hereto as **Exhibit 2**, among Pointwell Limited, a corporation organized under the laws of Ireland, as parent, the Borrower, the Lenders party thereto (in such capacity, collectively, the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as Administrative Agent (in such capacity, the "**DIP Administrative Agent**"), Collateral Agent (in such capacity, the "**DIP Collateral Agent**" and, together with the DIP Administrative Agent, the "**DIP Agent**"), and Escrow Agent (in such capacity, the "**DIP Escrow Agent**" and, together with the DIP Administrative Agent, the DIP Collateral Agent and the DIP Lenders, the "**DIP Secured Parties**") (as the same may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**" and, together with the schedules and exhibits attached thereto, this Interim Order, the Final Order, and all agreements, documents, and instruments delivered or executed in connection therewith (including the Fee Letter (as defined in the DIP Credit Agreement) executed by the Borrower in connection with the DIP Facility, and

other guarantee and security documentation, collectively, the "**DIP Documents**"), and to perform such other and further acts as may be required in connection with the DIP Documents;

(iii) authorizing the Debtors to use the DIP Loans, the proceeds thereof, and the Prepetition Collateral (defined below), including Cash Collateral (defined below), in accordance with the Initial Approved Budget (as defined in the DIP Credit Agreement and attached hereto as **Exhibit 1**) (subject to the permitted variances set forth in the DIP Credit Agreement), and subsequently Approved Budgets, to provide working capital for, and for the other general corporate purposes of, the Debtors, including chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, Adequate Protection Payments (defined below), and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented through the Cases in accordance with the RSA (as defined in the DIP Credit Agreement);

(iv) granting adequate protection to the Prepetition Secured Parties (defined below) to the extent of any Diminution in Value (defined below) of their interests in the Prepetition Collateral;

(v) granting to the DIP Agent, for the benefit of the DIP Secured Parties to secure the DIP Obligations (defined below), valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on, and senior security interests in, all of the DIP Collateral (defined below), subject only to (x) the Carve Out (defined below) and (y) other valid, perfected and unavoidable liens (other than the Prepetition Liens (defined below)) that are senior to the Prepetition Liens, if any, existing as of the Petition Date (or perfected after the Petition Date to the

extent permitted by section 546(b) of the Bankruptcy Code) on the terms and conditions set forth herein and in the DIP Documents (any such liens, the "**Existing Senior Liens**");[3]

(vi) granting superpriority administrative expense claims against each of the Debtors' estates to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders with respect to the DIP Obligations (defined below) with priority over any and all administrative expenses of any kind or nature and subject and subordinate only to the payment of the Carve Out on the terms and conditions set forth herein and in the DIP Documents;

(vii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, waiving certain of the Debtors' and the Debtors' estates' right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code;

(viii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, providing that the "equities of the case" exception under section 552(b) of the Bankruptcy Code not apply to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable;

(ix) pursuant to Bankruptcy Rule 4001, holding an interim hearing (the "**Interim Hearing**") on the Motion before this Court to consider entry of this Interim Order to, among other things, (1) authorize the Borrower to, on an interim basis, borrow from the DIP Lenders a principal amount of $60,000,000 in DIP Loans, (2) authorize the Guarantors to guaranty the DIP Obligations, (3) authorize the Debtors' use of Prepetition Collateral (including Cash

[3] Nothing in this Interim Order shall constitute a finding or ruling by this Court that any such prepetition liens are valid, senior, perfected, and/or unavoidable. Moreover, nothing in this Interim Order shall prejudice the rights of any party in interest including, but not limited to, the Debtors, the DIP Secured Parties, and/or the Committee to challenge the validity, priority, perfection and extent of any such prepetition liens.

Collateral), (4) grant the adequate protection described in this Interim Order, and (5) authorize the Debtors to execute and deliver the DIP Documents to which they are a party and to perform their respective obligations thereunder and such other and further acts as may be necessary or appropriate in connection therewith;

(x) scheduling a final hearing (the "**Final Hearing**") within twenty-five (25) days of the Petition Date to consider the relief requested in the Motion and the entry of the Final Order;

(xi) approving the form of notice with respect to the Final Hearing; and

(xii) granting related relief.

This Court having considered the Motion, the exhibits thereto, the *Declaration of John Frederick in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), the *Declaration of Christopher A. Wilson in Support of the Debtors' Motion for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Wilson Declaration**"), and the other evidence submitted or adduced and the arguments of counsel made at the Interim Hearing held pursuant to Bankruptcy Rule 4001(b)(2) on June 16, 2020; and this Court having heard and resolved or overruled on the merits any objections, reservations of rights, or other statements with respect to the relief requested in the Motion; and this Court having noted the appearances of parties in interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and the Debtors having provided notice of the Motion as set forth in the Motion, and it appearing that

no other or further notice of the Motion need be given; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[4]

A. *Petition Date*. On June 14, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware commencing these Cases.

B. *Debtors in Possession*. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

C. *Jurisdiction and Venue*. The Court has jurisdiction over the Motion, these Cases, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Venue for these Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Court may enter a final order consistent with Article III of the United States Constitution.

D. *Committee*. As of the date hereof, no official committee of unsecured creditors has been appointed in these Cases pursuant to section 1102 of the Bankruptcy Code (any such committee, the "**Committee**").

[4] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law, pursuant to Bankruptcy Rules 7052 and 9014.

E. *Debtors' Stipulations*. Without prejudice to the rights of parties in interest with standing other than the Debtors, but subject to the limitations thereon contained in Paragraphs 12 and 26 of this Interim Order, the Debtors represent, admit, stipulate, and agree (subsections (i) through (v) below, collectively, the "**Debtors' Stipulations**") that:

(i) *Prepetition Indebtedness*.

(a) The Prepetition First Lien Lenders (defined below), under that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Credit Agreement**" and, together with the "Credit Documents" (as defined in the Prepetition First Lien Credit Agreement), the "**Prepetition First Lien Credit Documents**"; the term loans issued under the Prepetition First Lien Credit Agreement, the "**Prepetition First Lien Term Loans**"; the revolving loans issued thereunder, the "**Prepetition First Lien Revolving Loans**" and, together with the Prepetition First Lien Term Loans, the "**Prepetition First Lien Debt**"), by and among among Evergreen Skills Intermediate Lux S.à r.l. ("**Holdings**"), Evergreen Skills Lux S.à r.l. (the "**Lux Borrower**"), the Borrower, Skillsoft Canada, Ltd. (the "**Canadian Borrower**"; the Lux Borrower, the Borrower, and the Canadian Borrower collectively, the "**First Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition First Lien Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (the "**Prepetition First Lien Administrative Agent**") and collateral agent (the "**Prepetition First Lien Collateral Agent**" and, together with the Prepetition First Lien Administrative Agent, the "**Prepetition First Lien Agent**"; the Prepetition First Lien Agent together with the Prepetition First Lien Lenders, the "**Prepetition First Lien Secured Parties**"), and the other parties thereto from time to time, provided the First Lien Borrowers with Prepetition First Lien Term Loans in the aggregate

principal amount of $900,000,000 and commitments for Prepetition First Lien Revolving Loans in the aggregate principal amount of $100,000,000.

(b) The Prepetition Second Lien Lenders (defined below), under that certain Second Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Credit Agreement**" and, together with the Prepetition First Lien Credit Agreement, the "**Prepetition Credit Agreements**"; the "**Credit Documents**" (as defined in the Prepetition Second Lien Credit Agreement), the "**Prepetition Second Lien Credit Documents**" and, together with the Prepetition First Lien Credit Documents, the "**Prepetition Credit Documents**"; the term loans issued under the Prepetition Second Lien Credit Agreement, the "**Prepetition Second Lien Term Loans**" and, together with the Prepetition First Lien Debt, the "**Prepetition Indebtedness**"), by and among among Holdings, Evergreen Skills Lux S.à r.l., the Lux Borrower, the Borrower (the Lux Borrower together with the Borrower, the "**Second Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition Second Lien Lenders**" and, together with the Prepetition First Lien Lenders, the "**Prepetition Secured Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (in such capacity, the "**Prepetition Second Lien Administrative Agent**") and collateral agent (in such capacity, the "**Prepetition Second Lien Collateral Agent**" and, together with the Prepetition Second Lien Administrative Agent, the "**Prepetition Second Lien Agent**"; the Prepetition Second Lien Agent together with the Prepetition First Lien Agent, the "**Prepetition Agents**"; the Prepetition Agents together with the DIP Agent and the DIP Escrow Agent, the "**Agents**"); the Prepetition Second Lien Agent together with the Prepetition Second Lien Lenders, the "**Prepetition Second Lien Secured Parties**"; the Prepetition Second Lien Secured Parties together with the Prepetition First Lien Secured Parties,

the "**Prepetition Secured Parties**"), and the other parties thereto from time to time, provided the Second Lien Borrowers with Prepetition Second Lien Term Loans in the aggregate principal amount of $485,000,000.

(c) On September 30, 2014, pursuant to the terms of that certain Amended and Restated First Lien Joinder Agreement and an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers obtained $465,000,000 in New Term Loans (as defined in the Prepetition First Lien Credit Agreement).

(d) On September 30, 2014, pursuant to the terms of that certain Amended and Restated Second Lien Joinder Agreement and an amendment to the Prepetition Second Lien Credit Agreement, the Second Lien Borrowers obtained $185,000,000 in New Term Loans (as defined in the Prepetition Second Lien Credit Agreement).

(e) On August 24, 2018, pursuant to an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers reduced the aggregate Revolving Credit Commitments of all Revolving Credit Lenders (each as defined in the Prepetition First Lien Credit Agreement) from $100,000,000 to $90,000,000.

(f) On or about March 27, 2019 the Company (i) prepaid $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Loans and (ii) terminated $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Commitments (each as defined in the Prepetition First Lien Credit Agreement) thereby reducing the First Lien Borrowers' obligations pursuant to the Prepetition First Lien Credit Agreement from $90,000,000 to $80,000,000.

(g) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition First Lien Secured

Parties pursuant to the Prepetition First Lien Credit Documents, for Prepetition First Lien Term Loans in the aggregate principal amount of approximately $1,290,000,000 and Prepetition First Lien Revolving Loans in the aggregate principal amount of approximately $79,500,000, *plus*, with respect to each, accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition First Lien Credit Agreement) owing under the Prepetition First Lien Credit Documents (collectively, the "**Prepetition First Lien Obligations**").

(h) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition Second Lien Secured Parties pursuant to the Prepetition Second Lien Credit Documents, for Prepetition Second Lien Term Loans in the aggregate principal amount of approximately $670,000,000 *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition Second Lien Credit Agreement) owing under the Prepetition Second Lien Credit Documents (collectively, the "**Prepetition Second Lien Obligations**" and, together with the Prepetition First Lien Obligations, the "**Prepetition Obligations**").

(ii) *Prepetition Indebtedness Collateral*.

(a) In connection with the Prepetition First Lien Credit Agreement, the Debtors entered into that certain First Lien Security Agreement, dated as of April 28, 2014 (as

amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Security Agreement**"), by and between the First Lien Borrowers, the other Credit Parties (as defined in the Prepetition First Lien Credit Agreement) party thereto, and the Prepetition First Lien Collateral Agent. Pursuant to the Prepetition First Lien Security Agreement and the other Prepetition First Lien Credit Documents, the Prepetition First Lien Obligations are secured by valid, binding, perfected first-priority security interests in and liens (the "**Prepetition First Lien Revolving and Term Loan Liens**") on the "Collateral" (the "**Prepetition Collateral**"), as defined in the Prepetition First Lien Security Agreement, consisting of substantially all of the Debtors' assets, except as may be set forth in the Prepetition First Lien Security Agreement.

(b) In connection with the Prepetition Second Lien Credit Agreement, the Debtors entered into that certain Second Lien Security Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Security Agreement**" and, together with the Prepetition First Lien Security Agreement, the "**Prepetition Security Agreements**"), by and between the Second Lien Borrowers, the other Credit Parties (as defined in the Prepetition Second Lien Credit Agreement) party thereto, and the Prepetition Second Lien Collateral Agent. Pursuant to the Prepetition Second Lien Security Agreement and the other Prepetition Second Lien Credit Documents, the Prepetition Second Lien Obligations are secured by valid, binding, perfected second-priority security interests in and liens (the "**Prepetition Second Lien Term Loan Liens**" and, together with the Prepetition First Lien Revolving and Term Loan Liens, the "**Prepetition Liens**") on the Prepetition Collateral.

(iii) *Cash Collateral*. Any and all of the Debtors' cash, including (i) amounts on deposit or maintained in any account or accounts by the Debtors, (ii) any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral existing as of the Petition Date, and (iii) the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of Bankruptcy Code section 363(a) (the "**Cash Collateral**").

(iv) *Bank Accounts*. The Debtors acknowledge and agree that as of the Petition Date, none of the Debtors has either opened or maintains any bank accounts other than the accounts listed in the exhibit attached to any order authorizing the Debtors to continue to use the Debtors' existing cash management system (the "**Cash Management Order**").

(v) *Validity, Perfection, and Priority of Prepetition Liens and Prepetition Obligations*. Subject to the Challenge Period (defined below), each of the Debtors acknowledges and agrees that: (A) as of the Petition Date, the Prepetition Liens are valid, binding, enforceable, non-avoidable, and properly perfected liens on and security interests in the Prepetition Collateral; (B) as of the Petition Date, the Prepetition Liens are subject and/or subordinate only to valid, perfected, and unavoidable liens and security interests existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; (C) the Prepetition Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors; (D) no offsets, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Obligations exist, and no portion of the Prepetition Liens or Prepetition Obligations is subject to any challenge or defense including impairment, set-off, right of recoupment, avoidance, attachment, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (whether equitable or otherwise), attack, offset, defense, counterclaims, cross-claims, or "claim" (as defined in the

Bankruptcy Code), pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (E) the Debtors and their estates have no claims, objections, challenges, causes of actions, recoupments, counterclaims, cross-claims, setoff rights, and/or choses in action, including "lender liability" causes of action or avoidance claims under chapter 5 of the Bankruptcy Code, whether arising under applicable state law or federal law (including any recharacterization, subordination, avoidance, disgorgement, recovery, or other claims arising under or pursuant to sections 105, 510, or 542 through 553 of the Bankruptcy Code), against the Prepetition Agents, the Prepetition Secured Parties, or any of their respective affiliates, agents, representatives, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon, or related to the Prepetition Indebtedness under the Prepetition Credit Documents, the Prepetition Obligations, or the Prepetition Liens; provided, however, that notwithstanding anything to the contrary in this Interim Order, the Debtors do not agree or acknowledge that the Prepetition Liens are perfected on cash in any accounts with institutions that are not the Prepetition Agents or Prepetition Secured Parties.

F. *Findings Regarding the DIP Facility and Use of Cash Collateral*.

(i) The Debtors have an immediate need to obtain the funds available under the DIP Facility and to use Cash Collateral (solely to the extent consistent with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents)) to, among other things, (A) permit the orderly continuation of their businesses; (B) make certain Adequate Protection Payments; and (C) pay the costs of administration of their estates and satisfy their other working capital and general corporate purposes during the pendency of these Cases. Specifically, the proceeds of the DIP Loans will provide the Debtors with the ability to fund day-to-day operations and meet administrative obligations during the Cases. The DIP Facility will

also reassure the Debtors' customers and employees that the Debtors will have access to additional liquidity to meet their commitments during the Cases and that the Debtors' businesses will continue as a going concern post-emergence. The ability of the Debtors to obtain sufficient working capital and liquidity through the incurrence of the new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the Debtors' going concern value and successful reorganization. The Debtors will not have sufficient sources of working capital and financing to operate their businesses in the ordinary course of business throughout the Cases without access to the DIP Facility and authorized use of Cash Collateral.

(ii) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code for the purposes set forth in the DIP Documents without the Debtors granting to the DIP Secured Parties, subject to the Carve Out as provided for herein, the DIP Liens (defined below) and the DIP Superpriority Claims (defined below) under the terms and conditions set forth in this Interim Order and the DIP Documents.

(iii) The DIP Facility has been negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties, and all of the Debtors' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Documents including, without limitation, all loans made to and guarantees issued by the Debtors pursuant to the DIP Documents and all other obligations under the DIP Documents (collectively, the "**DIP Obligations**") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon

the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and the DIP Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, and any liens or claims granted to, or payments made to, the DIP Agent, the DIP Escrow Agent, or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(iv) *Sections 506(c) and 552(b)*. In light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, the Prepetition Secured Parties are entitled to the rights and benefits of section 552(b) of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, (i) a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code and (ii) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(v) *Consent by Prepetition Agents*. The Prepetition First Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition First Lien Credit Agreement (the "**Required Prepetition First Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition First Lien Secured Parties, and the Prepetition Second Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition Second Lien Credit Agreement (the "**Required Prepetition Second Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition Second Lien Secured Parties, have consented to, conditioned on the entry of this Interim Order, the Debtors' incurrence of the DIP Facility and proposed use of Cash Collateral on the terms and

conditions set forth in this Interim Order and the terms of the adequate protection provided for in this Interim Order, including that the Adequate Protection Liens and Adequate Protection Superpriority Claims are subject and subordinate to the Carve Out.

G. *Good Cause Shown; Best Interest*. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing business and enhance the Debtors' prospects for a successful reorganization. Absent granting the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed.

H. *Notice*. In accordance with Bankruptcy Rules 2002, 4001(b) and (c), and 9014, and the Local Rules, notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors. Under the circumstances, the notice given by the Debtors of the Motion, the relief requested herein, and of the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b) and (c), and 9014 and applicable Local Rules.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. DIP Financing Approved. The Motion is granted on an interim basis as set forth herein, and the use of Cash Collateral on an interim basis is authorized, subject to the terms of this Interim Order.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of the Interim Order, to the extent not withdrawn or resolved, are overruled on the merits. This Interim Order shall become effective immediately upon its entry.

3. Authorization of the DIP Facility and the DIP Documents.

(a) The Debtors are hereby immediately authorized and empowered to enter into, and to execute and deliver, the DIP Documents, and such additional documents, instruments, certificates and agreements as may be reasonably required or requested by the DIP Secured Parties to implement the terms or effectuate the purposes of this Interim Order and the DIP Documents. To the extent not entered into as of the date hereof, the Debtors and the DIP Secured Parties shall negotiate the DIP Documents in good faith, and in all respects such DIP Documents shall be consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent, the DIP Escrow Agent, and the Required Lenders (as defined in the DIP Credit Agreement, the "**Required DIP Lenders**"). Upon entry of this Interim Order and until execution and delivery of the DIP Credit Agreement and the other DIP Documents, the Debtors and the DIP Secured Parties shall be bound by (x) the terms and conditions and other provisions set forth in the executed DIP Documents, and (y) this Interim Order, which shall govern and control the DIP Facility. Upon entry of this Interim Order, the Interim Order, the DIP Credit Agreement, and other DIP Documents shall govern and control the DIP Facility. The DIP Agent and the DIP Escrow Agent are hereby authorized to execute and enter into its respective obligations under the DIP Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Documents shall constitute valid and binding obligations of the Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the Motion, the DIP Documents, and this Interim Order, the terms and conditions of this Interim Order shall govern and control. To the extent there is a conflict between the terms and conditions of the Motion and the DIP Documents, the terms and conditions of the DIP Documents shall govern.

(b) Upon entry of this Interim Order, the Borrower is hereby authorized to borrow, and the Guarantors are hereby authorized to guaranty, borrowings up to an aggregate principal amount of $60,000,000 in DIP Loans into an escrow account, of which up to $30,000,000 in DIP Loans may be drawn prior to entry of the Final Order, subject to and in accordance with the terms of this Interim Order and the DIP Documents.

(c) The proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Documents and this Interim Order, and in accordance with the Approved Budget, subject to permitted variances as set forth in this Interim Order and the DIP Documents. Attached as **Exhibit 1** hereto and incorporated herein by reference is the Initial Approved Budget prepared by the Debtors and approved by the Required DIP Lenders in accordance with Section 9.18 of the DIP Credit Agreement.

(d) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Documents including, without limitation:

(1) the execution, delivery, and performance of the DIP Documents, including, without limitation, the DIP Credit Agreement, any guaranty, security and pledge agreement, and any mortgage to the extent contemplated thereby;

(2) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Documents (in each case in accordance with the terms of the applicable DIP Documents and in such form as the

Debtors, the DIP Agent, the DIP Escrow Agent (if applicable), and the Required DIP Lenders may agree), it being understood that (i) no further approval of the Court shall be required for amendments, waivers, consents, or other modifications to and under the DIP Documents or the DIP Obligations that do not shorten the maturity of the extensions of credit thereunder or modify the commitments or the rate of interest or other amounts payable thereunder and (ii) any such amendments, waivers, consents or modifications to the DIP Documents shall be provided to the U.S. Trustee and the Committee (if any);

(3) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees and expenses referred to in the DIP Documents, including (x) all fees and other amounts owed to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders and (y) all reasonable and documented costs and expenses as may be due from time to time, including, without limitation, the reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Documents (whether incurred before or after the Petition Date, including, for the avoidance of doubt, (a) the Specified Lender Advisors; (b) the Crossholder Lender Advisors; and (c) the Agent Advisors (each, as defined in the DIP Credit Agreement), and, solely to the extent necessary to exercise its rights and fulfill its obligations under the DIP Documents, one counsel to the DIP Agent in each local jurisdiction, which such fees and expenses shall not be subject to the approval of the Court, nor shall any recipient of any such payment be required to file with respect thereto any interim or final fee application with the Court provided that any fees and expenses of a professional shall be subject to the provisions of Paragraph 18 of this Interim Order; and

(4) the performance of all other acts required under or in connection with the DIP Documents.

(e) Upon entry of this Interim Order, the DIP Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Debtors enforceable against each Debtor party thereto in accordance with their respective terms and the terms of this Interim Order for all purposes during the Cases, any subsequently converted Case of any Debtor to a case under chapter 7 of the Bankruptcy Code or after the dismissal of any Case. No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Documents, or this Interim Order shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (a) to or on behalf of the DIP Agent or the DIP Escrow Agent on behalf of any DIP Secured Parties or (b) to or on behalf of the Prepetition Secured Parties, in each case pursuant to the DIP Documents, the provisions of this Interim Order, or any subsequent order of this Court, shall be received free and clear of any claim, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code (and, solely in the case of waivers of rights under sections 506(c) and 552(b) of the Bankruptcy Code, subject to the entry of the Final Order approving such waivers).

(f) The Guarantors are hereby authorized and directed to jointly, severally, and unconditionally guarantee, and upon entry of this Interim Order shall be deemed to have guaranteed, in full, all of the DIP Obligations.

4. Budget and Variance Reporting. The Initial Approved Budget is attached hereto as **Exhibit 1** and each updated, modified, or supplemented budget shall be in form and substance satisfactory to the Required DIP Lenders (it being acknowledged and agreed that the Initial Approved Budget attached to this Interim Order is approved by and satisfactory to the Required DIP Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of the DIP Credit Agreement, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required DIP Lenders may be communicated via an email from either of the Specified Lender Advisors). The Approved Budget shall be updated, modified or supplemented by the Debtors from time to time in writing transmitted to the DIP Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required DIP Lenders (with a copy of such written consent or request concurrently delivered to the DIP Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week following entry of this Interim Order, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required DIP Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required DIP Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required DIP Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required DIP Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period covered by the prior approved Approved Budget has terminated (and at all times thereafter

such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required DIP Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Commencing on July 16, 2020, on or before 5:00 p.m. (Eastern Standard Time) on the Thursday of every other week, the Borrower shall deliver to the DIP Agent and the Specified Lender Advisors (for distribution to the DIP Lenders) an Approved Budget Variance Report (as defined in the DIP Credit Agreement), which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period (as defined in the DIP Credit Agreement), be in a form satisfactory to the Required DIP Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors) and include all materials required by, and be otherwise consistent with, Section 9.18(c) of the DIP Credit Agreement.

5. Access to Records. Upon request, the Debtors shall provide the Specified Lender Advisors and the Crossholder Lender Advisors with all reporting and other information required to be provided to the DIP Agent under the DIP Documents, subject to the same limitations set forth therein. In addition to, and without limiting whatever rights to access the DIP Secured Parties have under the DIP Documents, upon reasonable notice to Debtors' counsel (e-mail being sufficient), at reasonable times and during normal business hours, the Debtors shall permit representatives, agents, and employees of the DIP Secured Parties to have access to (i) inspect the Debtors' assets, and (ii) all information (including historical information and the Debtors' books and records) and personnel, including regularly scheduled meetings as mutually agreed with the senior management of the Debtors and other company advisors (during normal business hours), and provide the DIP Secured Parties with access to all information they shall reasonably request, excluding any information for which confidentiality is owed to third parties, information subject

to attorney client or similar privilege, or where such disclosure would not be permitted by any applicable law, in each case as set forth in the DIP Documents.

6. DIP Superpriority Claims. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against each of the Debtors' estates (the "**DIP Superpriority Claims**") (without the need to file any proof of claim) with priority over any and all administrative expenses, adequate protection claims, diminution claims (if any), and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise, which allowed claims shall for the purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code and which shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof, including, without limitation, subject to authorization in the Final Order, any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code (such claims and causes of action, the "**Avoidance Actions**" and, the proceeds thereof and the property recovered with respect thereto, collectively, the "**Avoidance Proceeds**"), if any, subject only to, and subordinated in all respects to, the payment of the Carve Out.

7. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the

Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements, or the possession or control by the DIP Agent, the DIP Escrow Agent, or any DIP Lender of, or over, any DIP Collateral, the following security interests and liens are hereby granted by the Debtors to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause (a) and (b) below being collectively referred to as the "**DIP Collateral**"), subject only to (x) the Carve Out and (y) the Existing Senior Liens (all such liens and security interests granted to the DIP Collateral Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**"):

(a) First Priority Lien On Any Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) (collectively, the "**Previously Unencumbered Property**") (subject to the Carve Out), including, without limitation (in each case, to the extent not subject to valid, perfected, and non-avoidable liens), an equity pledge of any first-tier foreign subsidiaries of the Debtors, unencumbered cash constituting property of the Debtors (whether maintained with the DIP Agent, the DIP Escrow Agent, or otherwise) and any investment of such cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, accounts receivable, receivables and receivables records, general intangibles, payment intangibles,

tax or other refunds, insurance proceeds, letters of credit, contracts, owned real estate, real property leaseholds, fixtures, deposit accounts, commercial tort claims, securities accounts, instruments, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, real property, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each Debtor, other equity or ownership interests (including equity interests in subsidiaries of each Debtor), money, investment property, intercompany claims, claims arising on account of transfers of value from a Debtor to (x) another Debtor and (y) a non-Debtor affiliate incurred on or following the Petition Date, causes of action, including causes of action arising under section 549 of the Bankruptcy Code (but excluding all other Avoidance Actions), all products and proceeds of the foregoing and, subject to entry of the Final Order granting such relief, the Avoidance Proceeds; provided that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(b) Liens Priming the Prepetition Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all property of the Debtors that was subject to the Prepetition Liens (subject to the Carve Out) including, without limitation, the Prepetition Collateral and Cash Collateral; provided that such liens shall be immediately junior to any valid, perfected, and unavoidable liens, if any, existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; provided,

further, that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(c) Validity, Enforceability. The DIP Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, "**Successor Cases**"). Except as expressly provided herein with respect to the Carve Out and Existing Senior Liens, if any, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the DIP Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The DIP Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, the DIP Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the DIP Liens shall be deemed legal, valid, binding, enforceable, and perfected first-priority liens (subject only to the Carve Out and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

8. Adequate Protection for the Prepetition Secured Parties. Subject only to the Carve Out and the terms of this Interim Order, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, as adequate protection of their interests in the Prepetition Collateral (including Cash Collateral), solely for and equal in amount to the aggregate postpetition diminution in value of such interests (if any) (each such diminution, a "**Diminution in Value**"), resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, subordination to the Carve Out, the Debtors' use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Agents, for the benefit of themselves and the other Prepetition Secured Parties, are hereby granted the following (collectively, the "**Adequate Protection Obligations**"):

(a) Adequate Protection Liens.

(1) First Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition First Lien Secured Parties in the Prepetition Collateral, to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition First Lien Collateral Agent, for the benefit of itself and each of the Prepetition First Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, effective and automatically perfected postpetition security interests in and liens

(together, the "**First Lien Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the First Lien Adequate Protection Liens shall be subordinate only to (A) the Carve Out, (B) the DIP Liens, and (C) Existing Senior Liens, if any. The First Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The First Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, and the Existing Senior Liens, if any, the First Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the First Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The First Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the First Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the First Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected second-priority liens (subject only to the Carve Out, the DIP Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(2) Second Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition Second Lien Secured Parties in the Prepetition Collateral to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition Second Lien Collateral Agent, for the benefit of itself and each of the Prepetition Second Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, and effective and automatically perfected postpetition security interests in and liens (together, the "**Second Lien Adequate Protection Liens**" and, together with the First Lien Adequate Protection Liens, the "**Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the Second Lien Adequate Protection Liens shall be subordinate only to the (A) Carve Out, (B) the DIP Liens, (C) the First Lien Adequate Protection Liens, (D) the Prepetition First Lien Revolving and Term Loan Liens, and (E) Existing Senior Liens, if any. The Second Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The Second Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or

any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any, the Second Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the Second Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The Second Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the Second Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the Second Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected third-priority liens (subject only to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(b) Adequate Protection Superpriority Claims.

(1) First Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition First Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (if any) (the "**First Lien Adequate Protection Superpriority Claims**"), but junior to the Carve Out and the DIP Superpriority Claims. Subject

to the Carve Out and the DIP Superpriority Claims in all respects, the First Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code and the Second Lien Adequate Protection Claims. The Prepetition First Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the First Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders, in each case as provided in the DIP Documents.

(2) Second Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition Second Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (the "**Second Lien Adequate Protection Superpriority Claims**" and, together with the First Lien Adequate Protection Superpriority Claims, the "**Adequate Protection Superpriority Claims**"), but junior to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims. Subject to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims in all respects, the Second Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the

Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code. The Prepetition Second Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the Second Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations and the First Lien Adequate Protection Superpriority Claims have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders and the Prepetition First Lien Secured Parties, in each case as provided in the DIP Documents.

(c) Adequate Protection Payments. As further adequate protection, the Debtors are authorized and directed to pay, in accordance with the terms of Paragraph 18 of this Interim Order, all reasonable and documented out-of-pocket fees and expenses (the "**Adequate Protection Fees**"), whether incurred before or after the Petition Date, including all reasonable and documented out-of-pocket fees and expenses of the Prepetition Agents and for the counsel and other professionals retained as provided for in the DIP Documents and this Interim Order, including, for the avoidance of doubt, of (A) the Specified Lender Advisors, (B) the Crossholder Lender Advisors, (C) the Agent Advisors, and (D) solely to the extent necessary to exercise and fulfill their obligations under the Prepetition Credit Documents, one counsel to the Prepetition Agents in each local jurisdiction (all payments referenced in this sentence, collectively, the "**Adequate Protection Payments**"). None of the Adequate Protection Fees shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall

be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(d) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Debtors or any other party to contest such request, and the Debtors' rights to object to the same are expressly preserved.

(e) Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified to the extent necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant and allow the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agent, the Required DIP Lenders, the Prepetition Agents, the Required Prepetition First Lien Lenders or the Required Prepetition Second Lien Lenders may request in their respective reasonable discretions to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Agents, the DIP Secured Parties, and the Prepetition Secured Parties under this Interim Order; and (d) subject to the Carve Out, authorize the Debtors to make, and the Agents, the DIP Secured Parties, and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order; provided that, during the Remedies Notice Period (defined below), the automatic stay under section 362 of the Bankruptcy Code (to the extent applicable) shall remain in effect.

9. Carve Out.

(a) Priority of Carve Out. Subject to the terms and conditions contained in this Paragraph 9, each of the DIP Liens, DIP Superpriority Claims, Prepetition Liens, Adequate Protection Liens, and Adequate Protection Superpriority Claims shall be subject and subordinate to the Carve Out. The Carve Out shall have such priority over all assets of the Debtors, including any DIP Collateral, Prepetition Collateral, and any funds in the Loan Proceeds Account (as defined in the DIP Credit Agreement).

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in clause (iii) below); (ii) all reasonable and documented out-of-pocket fees and expenses up to $75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all reasonable and documented unpaid out-of-pocket fees and expenses (collectively, the "**Allowed Professional Fees**") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**") incurred at any time before or on the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of a Carve Out Trigger Notice (defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed

$3,000,000 incurred after the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of the Carve Out Trigger Notice (the "**Termination Declaration Date**"), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "**Post-Carve Out Trigger Notice Cap**"). For purposes of the foregoing, "**Carve Out Trigger Notice**" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent (at the direction of Required DIP Lenders) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and counsel to the Committee, if any, which notice shall be delivered following (i) the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked or (ii) the occurrence of a Maturity Date (as defined in the DIP Credit Agreement), other than clauses (a), (c), or (d) of the definition of "Maturity Date" in the DIP Credit Agreement (the "**Specified Maturity Date**").

(c) Carve Out Reserves. On the Termination Declaration Date, the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the then unpaid amounts (including the good-faith estimated and reasonable Professional Fees accrued and not yet invoiced) of the Allowed Professional Fees (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such

then unpaid Allowed Professional Fees (the "**Pre-Carve Out Trigger Notice Reserve**") prior to any and all other claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "**Post-Carve Out Trigger Notice Reserve**" and, together with the Pre-Carve Out Trigger Notice Reserve, the "**Carve Out Reserves**") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such DIP Lenders, notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Debtors to satisfy any or all of the conditions precedent for DIP Loans under the DIP Facility, any termination of the DIP Obligations following an Event of Default, or the occurrence of the Maturity Date, each DIP Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such DIP Lender's pro rata share with respect to such borrowing in accordance with the DIP Facility. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above

(the "**Pre-Carve Out Amounts**"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "**Post-Carve Out Amounts**"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this Paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this Paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Agents, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent, the DIP Escrow Agent and the Prepetition Agents shall not sweep or foreclose on cash (including cash received as a result of the sale or other

disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute DIP Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any facility pursuant to Prepetition Credit Agreements, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(e) No Direct Obligation to Pay Allowed Professional Fees. None of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, the DIP Escrow Agent, the DIP

Lenders, or the Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall otherwise be entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

10. Reserved.

11. Reservation of Rights of the DIP Agent, DIP Escrow Agent, DIP Lenders, and Prepetition Secured Parties. Subject in all cases to the Carve Out, notwithstanding any other provision in this Interim Order or the DIP Documents to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (a) any of the rights of any of the Prepetition Secured Parties to seek any other or supplemental relief in respect of the Debtors including the right to seek additional adequate protection at and following the Final Hearing; provided that any such further or different adequate protection shall at all times be subordinate and junior to the Carve Out and the claims and liens of the DIP Secured Parties granted under this Interim Order and the DIP Documents; (b) any of the rights of the DIP Secured Parties or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of the DIP Secured Parties or the Prepetition Secured Parties to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases, conversion of any of the

Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of the Cases, or (iii) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (c) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of any of the DIP Secured Parties or the Prepetition Secured Parties. The delay in or failure of the DIP Secured Parties and/or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies shall not constitute a waiver of any of the DIP Secured Parties' or the Prepetition Secured Parties' rights and remedies.

12. Reservation of Certain Committee and Third Party Rights and Bar of Challenges and Claims. Subject to the Challenge Period (defined below), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the Debtors' Stipulations, shall be binding upon the Debtors, their estates, and any of their respective successors in all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including, the Debtors' Stipulations, shall be binding upon all other parties in interest, including any Committee and any other person acting on behalf of the Debtors' estates, unless and to the extent that a party in interest with proper standing granted by order of the Court (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (i) before the earlier of (a) except as to any Committee, seventy-five (75) calendar days after entry of the Interim Order, (b) in the case of any such adversary proceeding or contested matter filed by any Committee, sixty (60) calendar days after the appointment of such Committee, and (c) the date of entry of an order confirming a chapter 11 plan, subject to further extension by written agreement of the Prepetition First Lien Agent (acting at the direction of the Required Prepetition First Lien Lenders) and the

Prepetition Second Lien Agent (acting at the direction of the Required Prepetition Second Lien Lenders) (in each case, a "**Challenge Period**" and the date of expiration of each Challenge Period being, a "**Challenge Period Termination Date**"); provided, however, that if, prior to the end of a Challenge Period (x) the cases are converted to chapter 7, or (y) a chapter 11 trustee is appointed, then, in each such case, the Challenge Period applicable to the chapter 7 trustee or the chapter 11 trustee shall be the time remaining under the applicable Challenge Period plus ten (10) days; (ii) seeking to avoid, object to, or otherwise challenge the findings or Debtors' Stipulations regarding: (a) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agents and the Prepetition Secured Parties; or (b) the validity, enforceability, allowability, priority, secured status, or amount of the Prepetition Obligations (any such claim, a "**Challenge**"), and (iii) in which the Court enters a final order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter. Upon the expiration of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is filed and overruled): (a) any and all such Challenges by any party (including the Committee, if any, any chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Cases) shall be deemed to be forever barred; (b) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Cases and any Successor Cases; (c) the Prepetition Indebtedness shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected secured claims, not subject to recharacterization, subordination, or avoidance; and (d) all of the Debtors' stipulations and admissions contained in this Interim Order, including the Debtors'

Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Debtors, the Debtors' estates, and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases. Furthermore, if any such adversary proceeding or contested matter is timely and properly filed under the Bankruptcy Rules, the stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Challenge Period Termination Date. Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including, without limitation, any Committee appointed in the Cases, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation any challenges (including a Challenge) with respect to the Prepetition Credit Documents, the Prepetition Liens, and the Prepetition Obligations, and a separate order of the Court conferring such standing on any Committee or other party-in-interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party-in-interest.

13. DIP Termination Date. On the DIP Termination Date (defined below), (a) all DIP Obligations shall be immediately due and payable, all commitments to extend credit under the DIP Facility will terminate; (b) all authority to use Cash Collateral shall cease; provided, however, that during the Remedies Notice Period, the Debtors may use Cash Collateral to fund the Carve Out and pay payroll and other expenses critical to the administration of the Debtors' estates strictly in accordance with the Approved Budget, subject to such variances as permitted in the DIP Credit

Agreement; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Documents in accordance with this Interim Order. For the purposes of this Interim Order, the "**DIP Termination Date**" shall mean the "**Maturity Date**" as defined in the DIP Credit Agreement.

14. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Documents, shall constitute an event of default (collectively, the "**Events of Default**"): (a) the failure of the Debtors to comply with or perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order; or (b) the occurrence of an "Event of Default" under the DIP Credit Agreement (subject to any applicable cure or grace period).

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence of and during the continuation of an Event of Default, or a Specified Maturity Date, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Remedies Notice Period, (a) the DIP Agent (at the direction of Required DIP Lenders) may declare (any such declaration shall be referred to herein as a "**Termination Declaration**") (i) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP Facility, (iii) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (iv) the application of the Carve Out through the delivery of the Carve Out Trigger Notice to the Borrower and (b) subject to Paragraph 13 above, the DIP Agent (at the

direction of Required DIP Lenders) may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of any such date a Termination Declaration is delivered and the DIP Termination Date shall be referred to herein as the "Termination Date"). The Termination Declaration shall not be effective until notice has been provided by electronic mail (or other electronic means) to counsel to the Debtors (Weil, Gotshal & Manges LLP), counsel to the Committee, if any, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) Business Days after the date a Termination Declaration is delivered (the "Remedies Notice Period"): (a) the DIP Agent (at the direction of Required DIP Lenders) shall be entitled to exercise its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations and DIP Superpriority Claims; and (b) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Credit Documents and this Interim Order with respect to the Debtors' use of Cash Collateral; provided, however, for the avoidance of doubt the Debtors may continue to use Cash Collateral in accordance with Paragraph 13 of this Interim Order during the Remedies Notice Period. During the Remedies Notice Period, the Debtors, the Committee, if any, and/or any party in interest shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court. Except as set forth in this Paragraph 15 or otherwise ordered by the Court prior to the expiration of the Remedies Notice Period, upon the expiration of the Remedies Notice Period, the Debtors shall be deemed to have waived their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Agent, the DIP Escrow

Agent, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order. Unless the Court has determined that an Event of Default has not occurred and/or is not continuing or the Court orders otherwise, the automatic stay shall automatically be terminated as to all of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties (solely with respect to the use of Cash Collateral to the extent permitted hereunder) at the expiration of the Remedies Notice Period without further notice or order, and the DIP Agent (at the direction of Required DIP Lenders) and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, and in the Prepetition Credit Documents, as applicable, or as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order.

16. Limitation on Charging Expenses Against Collateral. Subject to entry of the Final Order granting such relief, no expenses of administration of the Cases or any Successor Cases or future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Prepetition Collateral or the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. The Debtors are hereby authorized to use the Cash Collateral of the Prepetition Secured Parties, but solely for the purposes set forth in this Interim

Order and in accordance with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents) including, without limitation, to make payments on account of the Adequate Protection Obligations provided for in this Interim Order and to make any transfers between Debtors necessary to comply with the terms of the DIP Documents and this Interim Order.

18. Expenses and Indemnification.

(a) The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Documents as such amounts become due and without need to obtain further Court approval, including, without limitation, backstop, closing, arrangement or commitment fees (including all fees and other amounts owed to the DIP Lenders), the DIP Administrative Agent's fees, the DIP Collateral Agent's fees, and the DIP Escrow Agent's fees, the reasonable and documented out-of-pocket fees and disbursements of counsel and other professionals to the extent set forth in Paragraph 8(c) of this Interim Order, whether or not such fees arose before or after the Petition Date, all to the extent provided in this Interim Order or the DIP Documents. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date (as defined in the DIP Credit Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel and advisors to the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, and the Prepetition Secured Parties, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, or the Prepetition Secured Parties to first deliver a copy of its invoice as provided for herein.

(b) The Debtors shall be jointly and severally obligated to pay all fees and expenses described above, which obligations shall constitute DIP Obligations. Provided no Fee Objection (defined below) has been made, the Debtors shall pay the reasonable and documented out-of-pocket professional fees, expenses, and disbursements of professionals to the extent provided for in paragraph 8(c) of this Interim Order (collectively, the "**Lender Professionals**" and, each, a "**Lender Professional**") as soon as reasonably practicable after a ten (10) Business Days review period commencing with the receipt by counsel for the Debtors, any Committee, and the U.S. Trustee of each of the invoices therefor (the "**Invoiced Fees**" and such review period, the "**Review Period**") and without the necessity of filing formal fee applications, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of the Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege or protection, or any other evidentiary privilege or protection recognized under applicable law; provided that, upon the request of the U.S. Trustee prior to the expiration of the Review Period, the applicable Lender Professional shall provide more detailed support of the Invoiced Fees to the U.S. Trustee on a confidential basis. The Debtors, any Committee, or the U.S. Trustee (collectively, the "**Fee Notice Parties**") may dispute the payment of any portion of

the Invoiced Fees (the "**Disputed Invoiced Fees**") if, within the Review Period, a Fee Notice Party notifies the submitting party in writing setting forth the specific objections (a "**Fee Objection**") to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten (10) days prior written notice to the submitting party of any hearing on such motion or other pleading). For the avoidance of doubt, the Debtors shall promptly pay in full all Invoiced Fees in accordance with the terms of this paragraph other than the Disputed Invoiced Fees.

(c) In addition, the Debtors will indemnify the DIP Lenders, the DIP Agent, the DIP Escrow Agent, and their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing (each, an "**Indemnified Person**") and hold them harmless from and against all costs, expenses (including but not limited to reasonable and documented out-of-pocket legal fees and expenses), and liabilities arising out of or relating to the transactions contemplated hereby and any actual or proposed use of the proceeds of any loans made under the DIP Facility; provided that no such person will be indemnified for costs, expenses, or liabilities to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have been incurred solely by reason of the gross negligence, actual fraud, bad faith, or willful misconduct of such person (or their related persons).

19. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

20. Section 507(b) Reservation. Subject to the Carve Out, nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate

protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during the Cases. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by any of the Prepetition Secured Parties that the adequate protection granted herein does in fact adequately protect any of the Prepetition Secured Parties against any Diminution in Value of their respective interests in the Prepetition Collateral (including the Cash Collateral).

21. Insurance. Until the DIP Obligations have been indefeasibly paid in full, at all times the Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral and the DIP Collateral on the terms set forth in the DIP Documents.

22. No Waiver for Failure to Seek Relief. The failure or delay of the DIP Agent, the DIP Escrow Agent, or the Required DIP Lenders to exercise rights and remedies under this Interim Order, the DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

23. Perfection of the DIP Liens and Adequate Protection Liens.

(a) The DIP Agent, the DIP Escrow Agent, and the Prepetition Agents are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, deposit account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Whether or not the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) shall choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed,

enforceable, non-avoidable, and not, subject to the Challenge Period, subject to challenge, dispute, or subordination as of the date of entry of this Interim Order. If the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) determine to file or execute any financing statements, agreements, notice of liens, or similar instruments, the Debtors shall cooperate and assist in any such execution and/or filings as reasonably requested by the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the automatic stay shall be modified to allow such filings.

(b) A certified copy of this Interim Order may be filed with or recorded in filing or recording offices by or on behalf of the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording; provided, however, that notwithstanding the date of any such filing, the date of such perfection shall be the date of this Interim Order.

(c) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the

Bankruptcy Code, subject to applicable law. Any such provision shall have no force and effect with respect to the granting of the DIP Liens and the Adequate Protection Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in accordance with the terms of the DIP Credit Agreement or this Interim Order, subject to applicable law.

24. Reserved.

25. Release. Subject to the rights and limitations set forth in Paragraphs E(v) and 12 of this Interim Order, and with respect to the DIP Secured Parties, effective upon entry of this Interim Order, and with respect to the Prepetition Secured Parties, effective upon entry of the Final Order, each of the Debtors and the Debtors' estates, on their own behalf and on behalf of each of their predecessors, their successors, and assigns, shall, to the maximum extent permitted by applicable law, unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the DIP Secured Parties, and each of the Prepetition Secured Parties, and each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, and predecessors in interest, each in their capacity as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description that exist on the date hereof with respect to or relating to the DIP Obligations, the DIP Liens, the DIP Documents, the

Prepetition Obligations, the Prepetition Liens, or the Prepetition Credit Documents, as applicable, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the DIP Secured Parties and the Prepetition Secured Parties; provided that nothing in this paragraph shall in any way limit or release the obligations of any DIP Secured Party under the DIP Documents.

26. Credit Bidding. Subject to the terms of the RSA, section 363(k) of the Bankruptcy Code and, solely with respect to the Prepetition First Lien Agent and the Prepetition Second Lien Agent, entry of the Final Order, the DIP Agent (at the direction of the Required DIP Lenders), the Prepetition First Lien Agent (at the direction of the Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of the Required Prepetition Second Lien Lenders) shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the underlying lenders' respective claims, including, for the avoidance of doubt, Adequate Protection Superpriority Claims, if any, in any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under Bankruptcy Code section 1129(b)(2)(A)(ii)-(iii).

27. Preservation of Rights Granted Under this Interim Order.

(a) Unless and until all DIP Obligations are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Credit Documents or this

Interim Order, or otherwise seek to exercise or enforce any rights or remedies against such DIP Collateral; and (ii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral, except as set forth in Paragraph 23 herein.

(b) In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, any liens or claims granted to the DIP Secured Parties or the Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

(c) Unless and until all DIP Obligations, Prepetition Obligations, and Adequate Protection Payments are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly (i) except as permitted under the DIP Documents or, if not provided for therein, with the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the Required DIP Lenders, the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), the Required Prepetition First Lien Lenders, the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the Required Prepetition Second Lien Lenders, (x) any modification, stay, vacatur, or amendment of this Interim Order or (y) a priority claim for any administrative expense or unsecured claim against any of the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in

sections 503(b), 507(a), or 507(b) of the Bankruptcy Code) in any of the Cases, *pari passu* with or senior to the DIP Superpriority Claims, the Adequate Protection Superpriority Claims, or the Prepetition Obligations, or (z) any other order allowing use of the DIP Collateral; (ii) except as permitted under the DIP Documents (including the Carve Out), any lien on any of the DIP Collateral or the Prepetition Collateral with priority equal or superior to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens, as applicable; (iii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iv) except as set forth in the DIP Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor; (v) an order converting or dismissing any of the Cases; (vi) an order appointing a chapter 11 trustee in any of the Cases; or (vii) an order appointing an examiner with enlarged powers in any of the Cases.

(d) Notwithstanding any order dismissing any of the Cases entered at any time, (x) the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Payments are indefeasibly paid in full, in cash (and such DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall, notwithstanding such dismissal, remain binding on all parties in interest); and (y) to the fullest extent permitted by law the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in clause (x) above.

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired, or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, (ii) the entry of an order approving the sale of any Prepetition Collateral or DIP Collateral pursuant to section 363(b) of the Bankruptcy Code, or (iii) the entry of an order confirming a chapter 11 plan in any of the Cases. Pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Cases, in any Successor Cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code. The DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Secured Parties and the Prepetition Secured Parties granted by the provisions of this Interim Order shall continue in full force and effect until the DIP Obligations and the Adequate Protection Payments are indefeasibly paid in full, in cash (or, with respect to the DIP Obligations, otherwise satisfied in a manner agreed to by the Required DIP Lenders, the DIP Agent (acting at the direction of the Required DIP Lenders), and the DIP Escrow Agent).

(f) Other than as set forth in this Interim Order, neither the DIP Liens nor the Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest

granted in any of the Cases or arising after the Petition Date, and neither the DIP Liens nor the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

28. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral, including Cash Collateral, or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), initiate, seek standing with respect to, assert, prosecute, join, commence, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Documents, the Prepetition Credit Documents, or this Interim Order, including, without limitation, for the payment of any services rendered by the professionals retained by the Debtors or any Committee appointed in these Cases in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar

relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral or the Prepetition Collateral or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Parties related to the DIP Obligations or the Prepetition Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Prepetition Obligations, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', and the Prepetition Secured Parties' liens or security interests in the DIP Collateral or Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Prepetition Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations, or by or on behalf of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Prepetition Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent, the DIP Escrow Agent, or the DIP Lenders related to the DIP Obligations or the DIP Liens, or (y) any of the Prepetition Liens or any

other rights or interests of any of the Prepetition Secured Parties related to the Prepetition Obligations or the Prepetition Liens; provided that no more than $50,000 of the proceeds of the DIP Facility, the DIP Collateral, or the Prepetition Collateral, including the Cash Collateral, in the aggregate, may be used by any Committee appointed in these Cases, if any, solely to investigate, within the Challenge Period, the claims, causes of action, adversary proceedings, or other litigation against the Prepetition Secured Parties solely concerning the legality, validity, priority, perfection, enforceability or extent of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations. Nothing contained in this Paragraph 28 shall prohibit the Debtors from responding or objecting to or complying with discovery requests of any Committee, in whatever form, made in connection with such investigation or the payment from the DIP Collateral (including Cash Collateral) of professional fees related thereto or from contesting or challenging whether a Termination Declaration has in fact occurred.

29. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Documents unless all of the conditions precedent to the making of such extensions of credit under the applicable DIP Documents have been satisfied in full or waived in accordance with such DIP Documents.

30. Binding Effect; Successors and Assigns. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including without limitation, the DIP Secured Parties, the Prepetition Secured Parties, any Committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or

any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; provided that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan (whether under the DIP Credit Agreement, a promissory note or otherwise) to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates.

31. Limitation of Liability. Subject to entry of a Final Order, in determining to make any loan under the DIP Documents, permitting the use of Cash Collateral, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.* as amended, or any similar federal or state statute). Furthermore, nothing in this Interim Order or in the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the prepetition or post-petition activities of any of the Debtors.

32. No Requirement to File Claim for DIP Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, none of the DIP Agent, the DIP Escrow Agent, or any DIP Lender shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the DIP Obligations, all of which shall be due and payable in accordance with the DIP Documents without the necessity of filing any such proof of claim or request for payment of administrative expenses, and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or enforceability of any of the DIP Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect the DIP Agent's, the DIP Escrow Agent's, or any DIP Lender's rights, remedies, powers, or privileges under any of the DIP Documents, this Interim Order, or applicable law. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

33. No Requirement to File Claim for Prepetition Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, neither the Prepetition Agents nor any Prepetition Secured Parties shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the Prepetition Obligations or Adequate Protection Superpriority Claims; and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or

enforceability of any of the Prepetition Credit Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect any Prepetition Agent's or any Prepetition Secured Party's rights, remedies, powers, or privileges under any of the Prepetition Credit Documents, this Interim Order, or applicable law. In the event any Prepetition Agent nevertheless files a proof of claim, such Prepetition Agent is hereby authorized to file a single consolidated master proof of claim for all applicable Prepetition Obligations arising under the applicable Prepetition Credit Documents and applicable Adequate Protection Superpriority Claims, and such master proof of claim shall be deemed to constitute the filing of such proof of claim in each of the Cases of any Debtor against whom a claim may be asserted under the applicable Prepetition Credit Documents or this Interim Order. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

34. No Marshaling. Subject to entry of a Final Order granting such relief, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral, and proceeds of the DIP Collateral shall be received and applied pursuant to this Interim Order and the DIP Documents notwithstanding any other agreement or provision to the contrary. Subject to entry of a Final Order granting such relief, the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral.

35. Reserved.

36. Equities of the Case. The Prepetition Secured Parties shall each be entitled to all the rights and benefits of section 522(b) of the Bankruptcy Code, and, subject to and upon entry

of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the Collateral (including the Prepetition Collateral).

37. Final Hearing. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**. In the event no objections to entry of the Final Order are timely received, this Court may enter such Final Order without need for the Final Hearing.

38. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

39. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

63 **MARY F. WALRATH**
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Initial Approved Budget

Project Study
Global Consolidated
Initial Approved Budget

Week Number	1	2	3	4	5	6	7	8	9	10
Week Ending	06/12/20	06/19/20	06/26/20	07/03/20	07/10/20	07/17/20	07/24/20	07/31/20	08/07/20	08/14/20
Operating Forecast										
Cash Receipts	7,366,129	7,033,970	9,417,178	7,208,216	4,714,145	5,963,146	4,981,788	9,264,077	6,709,218	6,178,481
Operational Disbursements										
Compensation & Benefits	(8,648,467)	(3,199,443)	(6,162,365)	(2,680,099)	(669,800)	(5,907,556)	(2,709,583)	(7,324,246)	(1,146,634)	(5,919,015)
Rent & Utilities	(273,285)	(205,510)	(187,733)	(422,550)	(273,285)	-	(55,510)	(187,733)	(420,385)	(273,285)
Other Operating Disbursements	(1,461,745)	(3,560,212)	(3,531,658)	(8,717,037)	(2,959,957)	(2,988,511)	(2,959,957)	(2,959,957)	(2,657,611)	(6,564,641)
Total Operational Disbursements	**(10,383,497)**	**(6,965,164)**	**(9,881,756)**	**(11,819,686)**	**(3,903,042)**	**(8,896,067)**	**(5,725,050)**	**(10,471,937)**	**(4,224,630)**	**(12,756,940)**
Non-Operational Disbursements										
Professional Fees	(7,696,422)	(600,000)	-	(140,000)	-	(150,000)	-	(2,650,000)	-	(42,951,234)
Debt Service	-	(3,300,000)	-	(711,858)	-	-	-	(691,011)	-	(4,850,000)
Total Non-Operational Disbursements	**(7,696,422)**	**(3,900,000)**	**-**	**(851,858)**	**-**	**(150,000)**	**-**	**(3,341,011)**	**-**	**(47,801,234)**
Taxes	(504,876)	(517,798)	(238,174)	(181,267)	(51,321)	(902,076)	(114,765)	(253,407)	(461,195)	(310,525)
Net Cash Flow	**(11,218,666)**	**(4,348,993)**	**(702,752)**	**(5,644,595)**	**759,782**	**(3,984,997)**	**(858,026)**	**(4,802,278)**	**2,023,393**	**(54,690,218)**
Cash transferred to Non-Debtors										
Cash Transferred	-	1,500,000	500,000		2,000,000		2,000,000		2,000,000	
Cash Transferred Cumulative	-	1,500,000	2,000,000	2,000,000	4,000,000	4,000,000	6,000,000	6,000,000	8,000,000	8,000,000
Liquidity										
Liquidity										
Cash	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410	46,922,721
AR Facility Availability	-	-	-	-	-	-	-	-	-	-
Revolver Availability	-	-	-	-	-	-	-	-	-	-
Less: Unavailable Foreign Cash	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)
Total Liquidity	**12,392,146**	**28,241,465**	**42,559,625**	**31,993,111**	**29,459,100**	**31,293,519**	**31,951,673**	**37,983,068**	**35,296,166**	**46,272,477**
Senior Secured Super-Priority TL										
Beginning Balance	-	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000
Additional Borrowing/(Repayment)	-	25,000,000	-	-	-	10,000,000	5,000,000	-	-	20,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	(60,000,000)
Ending Balance	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000	-
New First Out TL										
Beginning Balance	-	-	-	-	-	-	-	-	-	-
Additional Borrowing/(Repayment)	-	-	-	-	-	-	-	-	-	50,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	60,000,000
Ending Balance	-	-	-	-	-	-	-	-	-	110,000,000
AR Facility										
Beginning Balance	67,760,133	67,760,133	67,760,133	68,365,479	68,365,479	68,365,479	68,365,479	68,365,479	63,397,178	63,397,178
Plus: Net Borrowing	-	-	21,467,015	-	-	-	-	17,357,918	-	-
Less: Repayment	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**67,760,133**	**67,760,133**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**63,397,178**	**63,397,178**	**63,397,178**
Less: Restricted Cash Balance	(16,059,980)	(20,861,669)	(6,446,103)	(11,368,022)	(14,661,815)	(18,842,399)	(22,326,219)	(6,524,244)	(11,234,539)	(15,568,011)
AR Facility Pro Forma Ending Balance	**51,700,153**	**46,898,464**	**61,919,376**	**56,997,457**	**53,703,664**	**49,523,080**	**46,039,260**	**56,872,934**	**52,162,639**	**47,829,167**
Restricted Cash										
Beginning Balance	11,029,101	16,059,980	20,861,669	6,446,103	11,368,022	14,661,815	18,842,399	22,326,219	6,524,244	11,234,539
Plus: CIT Collections	5,030,879	4,801,689	6,446,103	4,921,919	3,293,793	4,180,584	3,483,820	6,524,244	4,710,295	4,333,471
Less: AR Facility Paydown	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**16,059,980**	**20,861,669**	**6,446,103**	**11,368,022**	**14,661,815**	**18,842,399**	**22,326,219**	**6,524,244**	**11,234,539**	**15,568,011**
Cash										
Beginning Balance	29,291,936	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410
Change in Cash	(16,249,546)	15,849,318	14,318,160	(10,566,514)	(2,534,011)	1,834,419	658,154	6,031,396	(2,686,902)	10,976,310
Ending Balance	**13,042,390**	**28,891,709**	**43,209,869**	**32,643,355**	**30,109,344**	**31,943,763**	**32,601,917**	**38,633,312**	**35,946,410**	**46,922,721**

EXHIBIT 2

Form of DIP Credit Agreement

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

dated as of June [_], 2020

among

Pointwell Limited,
as the Parent,

Skillsoft Corporation,
as the Borrower

the several Lenders
from time to time party hereto,

and

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as the Administrative Agent, the Collateral Agent and the Escrow Agent

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SCHEDULES

EXHIBITS

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of June [__], 2020, among Pointwell Limited, a limited liability company incorporated under the laws of Ireland with registration number 540778 (the "**Parent**"), SKILLSOFT CORPORATION, a Delaware corporation (the "**Borrower**"), as the borrower, the lending institutions from time to time parties hereto (each, a "**Lender**" and, collectively, the "**Lenders**"), and WILMINGTON SAVINGS FUND SOCIETY, FSB, as the Administrative Agent, the Collateral Agent and the Escrow Agent (such terms and each other capitalized term used but not defined in this preamble having the meaning provided in Section 1).

WHEREAS, on June [_], 2020 (the "**Petition Date**"), each Credit Party (together with any of its Subsidiaries and Affiliates that are or become debtors under the Chapter 11 Cases, collectively, the "**Debtors**", and each individually, a "**Debtor**") commenced Chapter 11 Case Nos. [___], as administratively consolidated at Chapter 11 Case No. [___] (collectively, the "**Chapter 11 Cases**" and each individually, a "**Chapter 11 Case**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, within four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada, Ltd., in its capacity as foreign representative on behalf of the Debtors, will file an application with The Court of Queen's Bench of New Brunswick (the "**Canadian Bankruptcy Court**") pursuant to Part IV of the CCAA to, among other things, recognize the Chapter 11 Cases as "foreign main proceedings" and grant certain customary related relief (the "**Canadian Recognition Proceeding**");

WHEREAS, prior to the Petition Date, certain of the Lenders provided financing to the Borrower pursuant to (i) that certain First Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition First Lien Agent**"), the lenders party thereto (the "**Pre-Petition First Lien Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition First Lien Credit Agreement**") and (ii) that certain Second Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition Second Lien Agent**" and together with the Pre-Petition First Lien Agent, the "**Pre-Petition Agents**"), the lenders party thereto (the "**Pre-Petition Second Lien Lenders**" and together with the Pre-Petition First Lien Lenders, the "**Pre-Petition Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition Second Lien Credit Agreement**" and together with the Pre-Petition First Lien Credit Agreement, the "**Pre-Petition Credit Agreements**");

WHEREAS, as of the close of business on June [_], 2020, (i) the Pre-Petition First Lien Lenders under the Pre-Petition First Lien Credit Agreement were owed approximately $1,369,925,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition First Lien Credit Agreement) under the Pre-Petition First Lien Credit Agreement and (ii) the Pre-Petition Second Lien Lenders under the Pre-Petition Second Lien Credit Agreement were owed approximately $670,000,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition Second Lien Credit Agreement) under the Pre-Petition Second Lien Credit Agreement;

WHEREAS, the "Obligations" under and as defined in each of the Pre-Petition Credit Agreements are secured by a security interest in substantially all of the existing and after-acquired assets of the Borrower and the Guarantors, subject to the exceptions set forth therein;

WHEREAS, the Borrower has requested, and, upon the terms set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured term loan credit facility of $60,000,000 (the "**Term Loans**"), which will be funded into the Loan Proceeds Account on the Funding Date, subject to certain conditions set forth herein, pursuant to the DIP Order and the Canadian DIP Recognition Order, to fund the costs and expenses related to the Chapter 11 Cases and the Canadian Recognition Proceeding and the general corporate purposes and working capital requirements of the Parent and its Subsidiaries during the pendency of the Chapter 11 Cases, solely pursuant to and in accordance with this Agreement and the Approved Budget;

WHEREAS, subject to the terms hereof, the DIP Order and the Canadian DIP Recognition Order, the Borrower and the Guarantors have agreed to secure all of their Obligations under the Credit Documents by granting to the Collateral Agent, for the benefit of the Administrative Agent, the Collateral Agent and the other Secured Parties, a security interest in and lien upon substantially all of their existing and after-acquired personal property; and

WHEREAS, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

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

Section 1. Definitions

1.1 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"**ABR**" shall mean for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Effective Rate *plus* 1/2 of 1%, (ii) the rate of interest in effect for such day as published in the Wall Street Journal (or comparable publication or service for publishing the "prime rate") as the "prime rate", and (iii) the rate per annum determined in the manner set forth in clause (e) of the definition of Eurocurrency Rate *plus* 1%; provided that notwithstanding the foregoing, in no event shall the ABR applicable to the Term Loans at any time be less than 2.00% per annum. Any change in the ABR due to a change in such rate published as the "prime rate" or in the Federal Funds Effective Rate or Eurocurrency Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"**ABR Loan**" shall mean each Loan bearing interest based on the ABR.

"**Actual Cash on Hand**" shall mean unrestricted cash of the Credit Parties and its Subsidiaries (other than the restricted cash of the Receivables Subsidiary, including any cash collected in respect of receivables that is held as collateral for the Receivables Facility) deposited in commercial banks located in the United States (but not including the amounts deposited in the Loan Proceeds Account) and Canada or otherwise subject to a Control Agreement.

"**Actual Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the amount of the line item "Cash Receipts" as determined by reference to the Approved Budget as then in effect.

"**Actual Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties and their Subsidiaries, (i) (a) the amount of Actual Cash on Hand plus (b) the amount of the proposed Withdrawal pursuant to any outstanding Withdrawal Notice *minus* (ii) the Unrestricted Cash on Hand.

"**Actual Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Actual Restructuring Related Amounts.

"**Actual Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees during such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non-Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Ad Hoc Group of Crossholder Lenders**" shall mean those certain Lenders represented by the Crossholder Lender Advisors.

"**Ad Hoc Group of Lenders**" shall mean those certain Lenders represented by the Specified Lender Advisors.

"**Administrative Agent**" shall mean Wilmington Savings Fund Society, FSB, as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent appointed pursuant to Section 12.9.

"**Administrative Agent's Office**" shall mean the Administrative Agent's address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"**Administrative Questionnaire**" shall have the meaning provided in Section 13.6(b)(ii)(D).

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

"**Affiliate**" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliated Institutional Lender**" shall mean any Affiliate of the Sponsor that is either a bona fide debt fund or that extends credit or buys loans in the ordinary course of business.

"**Affiliated Lender**" shall mean a Lender that is the Sponsor or any Affiliate thereof (other than the Parent or any other Subsidiary of the Parent, or any Affiliated Institutional Lender).

"**Agent Advisors**" shall mean Seward & Kissel LLP, as counsel, and such other firm or local counsel appointed on behalf of, collectively, the Administrative Agent and the Collateral Agent in each relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions).

"**Agent Parties**" shall have the meaning provided in Section 13.17(b).

"**Agents**" shall mean the Administrative Agent and the Collateral Agent.

"**Agreement**" shall mean this Credit Agreement.

"**Agreement Currency**" shall have the meaning provided in Section 13.19.

"**AML Legislation**" shall mean the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, applicable within Canada, including any rules, regulations, guidelines, ordinances, judgments or orders thereunder, as the same may be amended from time to time.

"**Anti-Terrorism Laws**" shall mean any law relating to terrorism, corruption, economic sanctions, or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control, the United Nations Security Council, the European Union, Her Majesty's Treasury (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

"**Applicable Margin**" shall mean, on any date, with respect to each Term Loan that is an (i) ABR Loan, 6.50% per annum and (ii) Eurocurrency Loan, 7.50% per annum.

"**Approved Budget**" shall mean the then most current budget prepared by the Borrower and approved by the Required Lenders in accordance with Section 9.18.

"**Approved Budget Variance Report**" shall mean a report provided by the Borrower to the Administrative Agent, the Specified Lender Advisors and the Crossholder Lender Advisors (a) showing, in each case, on a line item by line item and a cumulative basis, the Actual Cash Receipts, the Actual Operating Disbursement Amounts and the Actual Restructuring Related Amounts as of the last day of the Variance Testing Period then most recently ended, noting therein (i) all variances, on a cumulative basis, from the Budgeted Cash Receipts and the Budgeted Operating Disbursement Amounts for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance in such Variance Testing Period with the Permitted Variances and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the actions which the Borrower has taken or intend to take with respect thereto and (b) which such reports shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via email by any of the Specified Lender Advisors).

"**Approved Fund**" shall mean any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"**Asset Sale**" shall mean:

(i) the sale, conveyance, transfer, or other disposition, in each case, which results in the permanent disposition of the subject property, whether in a single transaction or a series of related transactions, of property or assets (each a "**disposition**") of the Parent or any Subsidiary, or

(ii) the issuance or sale of Equity Interests of any Subsidiary (other than preferred stock of Subsidiaries issued in compliance with Section 10.1), whether in a single transaction or a series of related transactions.

"**Asset Sale Prepayment Event**" shall mean any Asset Sale; provided that, with respect to any Asset Sale, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Asset Sales exceeds $250,000 (the "**Asset Sale Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Asset Sale Prepayment Trigger).

"**Assignment and Acceptance**" shall mean an assignment and acceptance substantially in the form of Exhibit F, or such other form as may be approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) and the Administrative Agent.

"**Attorney Costs**" shall mean all reasonable and documented out-of-pocket fees, expenses and disbursements of any law firm or other external legal counsel.

"**Authorized Officer**" shall mean, with respect to any Person, any individual holding the position of chairman of the board (if an officer), any executive officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Financial Officer, the Treasurer, the Chief People Officer, the Vice President-Finance, a Senior Vice President, a Director, a Manager, or any other senior officer or agent with express authority to act on behalf of such Person designated as such by the board of directors or other managing authority of such Person.

"**Bail-In Action**" shall mean the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"**Bail-In Legislation**" shall mean, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law or regulation for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule or (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Bank Account**" shall mean any Deposit Account, Securities Account and Commodity Account of any Credit Party, each as defined in the UCC, or, if such account is located in Canada, shall mean any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

"**Bankruptcy Code**" shall mean Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"**Bankruptcy Court**" shall mean the "Bankruptcy Court" as defined in the recitals to this agreement or such other court having jurisdiction over the Chapter 11 Cases.

"**Bankruptcy Rules**" shall mean the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time be in effect and applicable to the Chapter 11 Cases.

"**Benefited Lender**" shall have the meaning provided in Section 13.9(a).

"**BIA**" means the *Bankruptcy and Insolvency Act* (Canada), RSC 1985, c. B-3, as amended.

"**Board**" shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

"**Borrower**" shall have the meaning provided in the preamble to this Agreement.

"**Borrower Materials**" shall have the meaning provided in Section 13.17(b).

"**Borrowing**" shall mean the Term Loans made on the Funding Date.

"**Budgeted Borrower Professional Fees**" shall mean with respect to any period, the amount that corresponds to the line item "Professional Fees" in the Approved Budget, as then in effect.

"**Budgeted Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the line item "Cash Receipts" in the Approved Budget, as then in effect.

"**Budgeted Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties, the amounts set forth as of such date of unrestricted cash of the Credit Parties and its Subsidiaries in the Approved Budget.

"**Budgeted Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Budgeted Restructuring Related Amounts.

"**Budgeted Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees for such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Business Day**" shall mean any day excluding Saturday, Sunday, and any other day on which banking institutions in New York City and Wilmington, Delaware are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a Eurocurrency Loan, any fundings, disbursements, settlements, and payments in respect of any such Eurocurrency Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the applicable London interbank market.

"**Canadian Bankruptcy and Insolvency Law**" shall mean any federal, provincial or territorial Canadian law from time to time in effect relating to bankruptcy, winding-up, insolvency, reorganization,

receivership, plans of arrangement or relief or protection of debtors, including the BIA, the CCAA, the *Winding up and Restructuring Act* (Canada), the *Business Corporations Act* (New Brunswick) and any other applicable corporate legislation.

"**Canadian Bankruptcy Court**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Benefit Plan**" shall mean any pension, retirement, savings, profit sharing, health, medical, dental, disability, life insurance, welfare or other employee benefit plan, program, policy or practice, whether written or oral, funded or unfunded, registered or unregistered, which is sponsored, maintained or contributed to or required to be contributed to by any Credit Party or under which any Credit Party has any actual or potential liability in respect of its employees or former employees in Canada, other than a Canadian Pension Plan or a Canadian Statutory Plan.

"**Canadian Confirmation Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Confirmation Order in Canada, which order shall be in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Defined Benefit Plan**" shall mean a Canadian Pension Plan which contains a "defined benefit provision" as defined in subsection 147.1(1) of the Income Tax Act (Canada).

"**Canadian DIP Recognition Order**" shall mean the Canadian Supplemental Order, unless the Canadian Final Order shall have been entered, in which case it means the Canadian Final Order.

"**Canadian Final Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Final Order in Canada and providing for a super priority charge over the Canadian Property, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Interim Order**" shall mean, collectively, the Canadian Recognition Order and the Canadian Supplemental Order.

"**Canadian Pension Plan**" shall mean a "registered pension plan", as that term is defined in subsection 248(1) of the *Income Tax Act* (Canada), which is or was sponsored, administered or contributed to, or required to be contributed to by, any Credit Party or under which any Credit Party has any actual or potential liability.

"**Canadian Property**" shall mean all current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Debtors located in Canada.

"**Canadian Recognition Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing the Chapter 11 Cases as "foreign main proceedings" under Part IV of the CCAA, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the

Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Canadian Recognition Proceeding**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Statutory Plan**" shall mean any government sponsored pension, employment insurance, parental insurance or worker compensation plan.

"**Canadian Supplemental Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Interim Order in Canada, providing for the CCAA DIP Lenders' Charge, granting a stay of proceedings in respect of the Debtors in Canada and granting certain customary additional relief in the Canadian Recognition Proceeding, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Capital Lease**" shall mean, as applied to any Person, any lease of any property (whether real, personal, or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person.

"**Capital Stock**" shall mean (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights, or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited), and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that "cash-settled phantom appreciation programs" in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

"**Capitalized Lease Obligation**" shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a Capital Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

"**Carve Out**" has the meaning assigned to such term in the DIP Order.

"**Carve Out Trigger Notice**" has the meaning assigned to such term in the DIP Order.

"**Cash Equivalents**" shall mean:

(i) Dollars,

(ii) (a) Euro, Pounds Sterling, Canadian Dollars, or any national currency of any Participating Member State in the European Union or (b) local currencies held from time to time in the ordinary course of business,

(iii) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government, Canadian government, Her Majesty's Government, or any country that is a member state of the European Union or any agency or instrumentality thereof the securities

of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,

(iv) certificates of deposit, time deposits, and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year, and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the Dollar Equivalent as of the date of determination) in the case of foreign banks,

(v) repurchase obligations for underlying securities of the types described in clauses (iii), (iv), and (ix) entered into with any financial institution meeting the qualifications specified in clause (iv) above,

(vi) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P and in each case maturing within 24 months after the date of creation thereof,

(vii) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 24 months after the date of creation or acquisition thereof,

(viii) readily marketable direct obligations issued by the federal government, any state, commonwealth, or territory of the United States, or the federal government or any province of Canada, in each case, any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition,

(ix) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition,

(x) solely with respect to any Foreign Subsidiary: (a) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (b) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "A-2" or the equivalent thereof or from Moody's is at least "P-2" or the equivalent thereof (any such bank being an "**Approved Foreign Bank**"), and in each case with maturities of not more than 24 months from the date of acquisition, and (c) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank, in each case, customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by such Foreign Subsidiary organized in such jurisdiction,

(xi) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States, Cash Equivalents shall also include investments of the type and maturity

described in clauses (i) through (ix) above of foreign obligors, which investments have ratings, described in such clauses or equivalent ratings from comparable foreign rating agencies, and

(xii) investment funds investing 90% of their assets in securities of the types described in clauses (i) through (ix) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (i) and (ii) above; provided that such amounts are converted into any currency listed in clauses (i) and (ii) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"**Cash Flow Forecast**" shall mean a consolidated weekly cash flow forecast commencing on the Wednesday before the Closing Date through January 27, 2021, which shall set forth, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period.

"**Cash Management Order**" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after the "first day" hearing, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), which among other matters authorizes the Debtors to maintain their existing cash management and treasury arrangements (as set forth in the Pre-Petition Term Loan Agreement) or such other arrangements as shall be acceptable to the Required Lenders in all material respects (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

"**Casualty Event**" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award in respect of any equipment, fixed assets, or real property (including any improvements thereon) to replace or repair such equipment, fixed assets, or real property; provided that, with respect to any Casualty Event, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Casualty Events, after giving effect to reinvestment rights set forth herein, exceeds $250,000 (the "**Casualty Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Casualty Prepayment Trigger).

"**CCAA**" means the Companies' Creditors Arrangement Act (Canada), R.S.C 1985, c. C-36.

"**CCAA Administration Charge**" means the "Administration Charge" as defined in the Canadian Supplemental Order, in an amount not to exceed CAD$150,000.

"**CCAA DIP Lenders' Charge**" means the "DIP Lenders' Charge" as defined in the Canadian Supplemental Order.

"**CCAA Filing Date**" shall mean the date on which an application to commence the Canadian Recognition Proceeding is made to the Canadian Bankruptcy Court.

"**Change in Law**" shall mean (i) the adoption of any law, treaty, order, policy, rule, or regulation after the Closing Date, (ii) any change in any law, treaty, order, policy, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (iii) compliance by any Lender with any guideline, request, directive, or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law), including, for avoidance of doubt any such adoption, change or compliance in respect of (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules,

regulations, guidelines, or directives thereunder or issued in connection therewith and (b) all requests, rules, guidelines, requirements, or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign regulatory authorities pursuant to Basel III regardless of the date enacted, adopted or issued.

"**Change of Control**" shall mean and be deemed to have occurred if (i) the Permitted Holders shall at any time not beneficially own, in the aggregate, directly or indirectly, at least a majority of the voting power of the outstanding voting stock of the Parent; (ii) [reserved]; (iii) at any time, a Change of Control under clause (i) of either Pre-Petition Credit Agreement shall have occurred; or (iv) the Parent shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Borrower. Notwithstanding the foregoing, the commencement of the Chapter 11 Cases shall not constitute a "Change of Control" hereunder.

"**Chapter 11 Cases**" has the meaning set forth in the recitals of this Agreement.

"**Chapter 11 Plan**" shall mean a chapter 11 plan of liquidation or reorganization in the Chapter 11 Cases in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders in all respects (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and consented to by the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), confirmed by an order (in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) of the Bankruptcy Court under the Chapter 11 Cases (which consent or satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), containing, among other things, (i) a release in favor of the Administrative Agent and the Lenders and their respective affiliates on the terms set forth in the RSA, and (ii) provisions with respect to the settlement or discharge of all claims and other debts and liabilities on the terms set forth in the RSA, as such plan of liquidation or reorganization may be modified, altered, amended or otherwise changed or supplemented with the prior written consent of the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Chapter 11 Plan Disclosure Statement**" shall mean a disclosure statement to accompany the Chapter 11 Plan and provide adequate information to voting creditors as provided by section 1125(a)(1) in the Bankruptcy Code.

"**Charterhouse**" shall mean Charterhouse Capital Partners LLP.

"**Closing Date**" shall mean the date on which the conditions precedent set forth in Section 6.1 shall have been satisfied or waived, which date is June [_], 2020.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"**Collateral**" shall mean (i) all property pledged, charged, assigned or mortgaged or purported to be pledged, charged, assigned or mortgaged pursuant to the Security Documents, excluding in all events Excluded Property and (ii) (x) the "DIP Collateral" referred to in the DIP Order, it being understood that "Collateral" shall include all such "DIP Collateral" irrespective of whether any such property was excluded pursuant to the Pre-Petition Credit Documents and (y) the Canadian Property; provided that the Collateral shall in no event included Excluded Property.

"**Collateral Agent**" shall mean Wilmington Savings Fund Society, FSB, as collateral agent under the Security Documents, or any successor collateral agent appointed pursuant to Section 12.9.

"**Commitment Fee**" shall have the meaning provided in Section 4.1(a).

"**Commitments**" shall mean, with respect to each Lender (to the extent applicable), such Lender's Term Loan Commitment.

"**Communications**" shall have the meaning provided in Section 13.17.

"**Company Advisors**" shall means (i) Alix Partners and (ii) Houlhan Lokey.

"**Confidential Information**" shall have the meaning provided in Section 13.16.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Chapter 11 Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Chapter 11 Plan Disclosure Statement) in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (which satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Contractual Requirement**" shall have the meaning provided in Section 8.3.

"**Control Agreement**" shall mean an account control agreement that establishes the Collateral Agent's "control" over a Bank Account within the meaning of Section 8-106 or 9-104 of the UCC, as applicable, each in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower.

"**Credit Documents**" shall mean this Agreement, the Fee Letter, the Escrow Agreement, the Guarantees, the Security Documents, the Intercompany Note, any promissory notes issued by the Borrower pursuant hereto, any Withdrawal Notice, any other agreements, documents and instruments providing for or evidencing any other Obligations, and any other document or instrument executed or delivered at any time in connection with any Obligations, including any joinder agreement among holders of Obligations, to the extent such are effective at the relevant time, as each may be amended, restated, amended and restated, supplemented, modified, renewed or extended from time to time.

"**Credit Event**" shall mean the Closing Date, the Funding Date and each Withdrawal Date.

"**Credit Party**" shall mean the Parent, the Borrower, and the other Guarantors.

"**Crossholder Lender Advisors**" shall mean (a) Milbank LLP, as legal counsel and (b) Moelis & Company LLC, as financial advisor.

"**Debt Incurrence Prepayment Event**" shall mean any issuance or incurrence by the Parent or any Subsidiary of any Indebtedness not otherwise permitted to be incurred pursuant to Section 10.1 of this Agreement.

"**Debtor Relief Laws**" shall mean the Bankruptcy Code of the United States, Canadian Bankruptcy and Insolvency Law, the Insolvency Act 1986 under the laws of England and Wales, the provisions of law implemented pursuant to the Corporate Insolvency and Governance Bill dated 20 March 2020 under the laws of England and Wales and all other liquidation, conservatorship, bankruptcy, general assignment for

the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, administration, examinership or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Default**" shall mean any event, act, or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"**Defaulting Lender**" shall mean any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of Lender Default.

"**Deferred Net Cash Proceeds**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Designated Jurisdiction**" shall mean any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"**DIP Facility**" shall mean the funding of the Term Loans on the Funding Date.

"**DIP Order**" shall mean the Interim Order, unless the Final Order shall have been entered, in which case it means the Final Order.

"**Direction of the Required Lenders**" shall mean a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any of the Specified Lender Advisors (or any other Lender Advisor selected by the Required Lenders and designated in writing to the Administrative Agent), it being understood and agreed that the Administrative Agent and/or the Collateral Agent and/or the Escrow Agent can conclusively rely on any such written direction or instruction from such Specified Lender Advisor or designated Lender Advisor at the direction of the Required Lenders.

"**disposition**" shall have the meaning assigned such term in clause (i) of the definition of Asset Sale.

"**Disqualified Stock**" shall mean, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, in whole or in part, in each case, prior to the date that is 91 days after the Maturity Date; provided that (i) if such Capital Stock is issued to any plan for the benefit of employees of the Parent or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death, or disability and (ii) no Qualified PECS shall constitute Disqualified Stock.

"**Dollar Equivalent**" shall mean, at any time, (i) with respect to any amount denominated in Dollars, such amount, and (ii) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars, as determined by the Administrative Agent on the basis of the Spot Rate (determined on the most recent date of determination) for the purchase of Dollars with such currency.

"**Dollars**" and "**$**" shall mean dollars in lawful currency of the United States.

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

"**EEA Member Country**" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Environmental Claims**" shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation, or proceedings pursuant to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "**Claims**"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief relating to the presence Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata, and natural resources such as wetlands.

"**Environmental Law**" shall mean any applicable federal, state, provincial, territorial, foreign, or local statute, law, rule, regulation, ordinance, code, and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree, or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or protection of human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release, or threat of Release of Hazardous Materials.

"**Equity Interest**" shall mean Capital Stock and all warrants, options, or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

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

"**ERISA Affiliate**" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party or any Subsidiary thereof, is treated as a single employer under Section 414 (b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"**ERISA Event**" shall mean (i) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (ii) the existence

with respect to any Plan of a non-exempt Prohibited Transaction; (iii) any Reportable Event; (iv) the failure of any Credit Party, any Subsidiary thereof or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (v) a determination that any Pension Plan is in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (vi) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (vii) the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (viii) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (ix) the failure by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (x) the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (xi) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (xii) the failure by any Credit Party, any Subsidiary thereof, or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"**Escrow Agent**" shall mean the Escrow Agent under the Escrow Agreement, which shall initially be Wilmington Savings Fund Society, FSB, in its capacity as Escrow Agent.

"**Escrow Agreement**" shall mean an Escrow Agreement dated as of the Closing Date (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among the Borrower, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Loan Proceeds Account.

"**EU Bail-In Legislation Schedule**" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"**Eurocurrency Loan**" shall mean any Loan bearing interest at a rate determined by reference to the Eurocurrency Rate.

"**Eurocurrency Rate**" shall mean, for any Interest Period with respect to a Eurocurrency Loan, the rate per annum equal to the offered rate administered by ICE Benchmark Administration ("**LIBOR**") or a comparable or successor rate, which rate is approved by the Administrative Agent (at the Direction of the Required Lenders), on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent (at the Direction of the Required Lenders) from time to time) at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to one month commencing that date; provided that, in no event shall the Eurocurrency Rate be less than 1.00% per annum.

"**European Union Regulation**" shall have the meaning given to such term in Section 8.18.

"**Event of Default**" shall have the meaning provided in Section 11.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means, as to any Credit Party, (i) all Deposit Accounts or Securities Accounts that are used solely to hold cash, Cash Equivalents and other assets comprised solely of (a) funds used for payroll and payroll taxes and other employee benefit payments to any Credit Party's officers, directors, employees or consultants, and (b) all taxes required to be collected, remitted or withheld (including, without limitation, federal, state, provincial, territorial and foreign withholding taxes), including, without limitation, the employer's share thereof, (ii) any Deposit Account or Securities Accounts or Futures Account (other than any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada) that, individually, contain an average daily balance of less than $50,000 or in the aggregate, contain an average daily balance of less than $150,000 and (iii) any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada that in the aggregate, contain an average daily balance of less than $250,000.

"**Excluded Property**" shall mean (a) [reserved], (b) [reserved], (c) any governmental licenses or state or local franchises, charters and authorizations to the extent security interest is prohibited by a Requirement of Law (excluding the proceeds therefrom), (d) pledges and security interests prohibited or restricted by any Requirements of Law, (e) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, (f) [reserved], (g) any assets where the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby as determined by the Required Lenders, (h) any Capital Stock of any Receivables Subsidiary, (i) [reserved], (j) [reserved] and (k) [reserved]; provided, however, that Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded Property referred to in clauses (a) through (k) (unless such proceeds, substitutions or replacements would constitute Excluded Property referred to in clauses (a) through (k)).

"**Excluded Subsidiary**" shall mean after giving effect to the DIP Order, (a) [reserved], (b) any Subsidiary of the Parent that is prohibited by any applicable Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Receivables Subsidiary, or (d) [reserved].

"**Excluded Taxes**" shall mean, with respect to any Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its net income or net profits, franchise (and similar) Taxes (imposed in lieu of net income Taxes) or branch profits Taxes (in each case, however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local, or foreign law), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) other than in the case of a Lender that is an assignee pursuant to a request by the Borrower under Section 13.7 (or that designates a new lending office pursuant to a request by the Borrower), any United States federal withholding Tax imposed on amounts payable to or for the account of a Lender pursuant to laws in force at the time such Lender acquires an interest in (or becomes a party to) any Credit Document (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the

applicable Credit Parties with respect to such withholding Tax pursuant to Section 5.4, (iii) any withholding Taxes attributable to a recipient's failure to comply with Section 5.4(e), (iv) [reserved] or (v) any withholding Tax imposed under FATCA.

"**Fair Market Value**" shall mean with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm's length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as determined in good faith by the Borrower.

"**FATCA**" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder, official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the date of this Agreement (or any amended or successor version described above), and any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing.

"**FCPA**" shall have the meaning provided in Section 8.20(c).

"**Federal Funds Effective Rate**" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to a financial institution selected by the Required Lenders (in consultation with the Borrower) on such day on such transactions, which such rate shall be administratively feasible for the Administrative Agent.

"**Fee Letter**" shall mean that certain Fee Letter dated the Closing Date between Wilmington Savings Fund Society, FSB and the Borrower.

"**Fees**" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"**Final Hearing Date**" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"**Final Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on a final basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Required Lenders (which satisfaction of the Required Lender in each case may be communicated via email from any of the Specified Lender Advisors)), which order has not been reversed or stayed or is otherwise subject to a timely filed motion for a stay, rehearing, reconsideration, appeal or any other review without the consent of the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Financial Advisor Engagement Letters**" shall mean (i) that certain agreement executed as of April 1, 2019 between Greenhill & Co., LLC, the Parent and Gibson Dunn & Crutcher LLP and (ii) that certain agreement dated as of January 21, 2020 by and among Moelis & Company LLC, Milbank LLP, and the Parent.

"**Financial Officer**" shall mean the chief financial officer, principal accounting officer, treasurer or controller (or equivalent officer) of the Borrower.

"**Flood Insurance Laws**" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"**Flow of Funds Statement**" shall mean a flow of funds statement relating to payments to be made and credited by all of the parties on the Funding Date (including wire instructions therefor) as prepared by the Borrower and its financial advisor in consultation with (and approved by) the Administrative Agent and the Required Lenders (which such approval may be communicated via email from any of the Specified Lender Advisors).

"**Foreign Benefit Arrangement**" shall mean any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Credit Party**" shall mean the Parent and each Guarantor that is a Foreign Subsidiary.

"**Foreign Law Security Filing**" shall mean any filing or notification required to be made in any registry of a territory outside of the U.S. in order to perfect any security interest created pursuant to the Security Documents.

"**Foreign Plan**" shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Plan Event**" shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (i) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (ii) the failure to register or loss of good standing (if applicable) with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (iii) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the terms of such Foreign Plan or Foreign Benefit Arrangement.

"**Foreign Pledge Agreement**" shall mean each (a) pledge agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other pledge agreement executed by any Credit Party and governed by the laws of any jurisdiction (other than the United States) pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Security Agreement**" shall mean each (a) security agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other security agreement executed by any Credit Party pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Subsidiary**" shall mean each Subsidiary of the Parent that is not a U.S. Subsidiary.

"**Full Payment**" or "**Pay in Full**" or "**Paid in Full**" shall mean, with respect to any Obligations, the indefeasible, full and complete cash payment thereof, including any interest, fees and other charges accruing during the Chapter 11 Cases. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated as well.

"**Fund**" shall mean any Person (other than a natural Person) that is engaged or advises funds or other investment vehicles that are engaged in making, purchasing, holding, or investing in commercial loans and similar extensions of credit in the ordinary course.

"**Funding Date**" shall have the meaning set forth in Section 2.1.

"**GAAP**" shall mean generally accepted accounting principles in the United States, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Furthermore, at any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP and GAAP concepts shall thereafter be construed to refer to IFRS and corresponding IFRS concepts (except as otherwise provided in this Agreement); provided that any such election, once made, shall be irrevocable; provided, further, that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Parent's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give written notice of any such election made in accordance with this definition to the Administrative Agent. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness. Notwithstanding any other provision contained herein, the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations.

"**Governmental Authority**" shall mean any nation, sovereign, or government, any state, province, territory, or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, taxing, regulatory, or administrative functions of or pertaining to government, including a central bank or stock exchange.

"**Granting Lender**" shall have the meaning provided in Section 13.6(g).

"**Guarantee**" shall mean (i) the Debtor-in-Possession Guarantee dated as of the Closing Date made by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time and (ii) any other guarantee of the Obligations made by a Subsidiary in form and substance reasonably acceptable to the Required Lenders (which satisfaction may be communicated by via email from any of the Specified Lender Advisors).

"**guarantee obligations**" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any primary obligor in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (i) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds

(a) for the purchase or payment of any such Indebtedness or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities, or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness, or (iv) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term guarantee obligations shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations or product warranties in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any guarantee obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"**Guarantors**" shall mean (i) each Subsidiary of the Parent that is party to a Guarantee on the Closing Date, (ii) each Subsidiary of the Parent that becomes a party to a Guarantee after the Closing Date pursuant to Section 9.11 or otherwise and (iii) the Parent; provided that (i) in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary) (ii) in no event shall any Immaterial Subsidiary be required to be a Guarantor (unless expressly requested by the Required Lenders in writing after the Closing Date) and (iii) in no event shall any Subsidiary that is described in clause (b) of the definition of "Excluded Subsidiary" be a Guarantor.

"**Hazardous Materials**" shall mean (i) any petroleum or petroleum products, radioactive materials, friable asbestos, polychlorinated biphenyls, and radon gas; (ii) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any Environmental Law; and (iii) any other chemical, material, or substance, which is prohibited, limited, or regulated due to its dangerous or deleterious properties or characteristics by, any Environmental Law.

"**Hedge Agreements**" shall mean (i) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**IFRS**" shall have the meaning given such term in the definition of GAAP.

"**Immaterial Subsidiary**" shall mean any Foreign Subsidiary as of the Closing Date, except to the extent that such Subsidiary is organized under the laws of Canada or any province thereof, Ireland, or England and Wales.

"**Impacted Loans**" shall have the meaning provided in Section 2.10(a).

"**incur**" shall have the meaning provided in Section 10.1.

"**Indebtedness**" shall mean, with respect to any Person, (i) any indebtedness (including principal and premium) of such Person, whether or not contingent (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures, or similar instruments or letters of credit or bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), or (d) representing any hedging obligations, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and hedging obligations) would appear as a net liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Parent solely by reason of push down accounting under GAAP shall be excluded, (ii) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (i) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (iii) to the extent not otherwise included, the obligations of the type referred to in clause (i) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person. The amount of Indebtedness of any Person for purposes of clause (iii) above shall (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

"**Indemnified Liabilities**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Person**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Taxes**" shall mean (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Initial Approved Budget**" shall mean the Approved Budget attached hereto as Exhibit B on the Closing Date; provided that, for the avoidance of doubt, the Initial Approved Budget shall not contemplate or include the funding or prefunding of any executive retention plan.

"**Initial Investors**" shall mean CCP IX LP No. 1, CCP IX LP No. 2 and CCP IX LP Co-Investment LP, and each of their respective Affiliates (excluding any operating portfolio companies of the foregoing).

"**Insolvent**" shall mean, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

"**Intellectual Property**" shall mean all U.S. and non-U.S. intellectual property in all jurisdictions throughout the world, including all (i) (a) patents; (b) copyrights and copyrightable works; (c) trademarks, service marks, trade names, logos, trade dress, and other indicia of origin; (d) trade secrets and know how; and (e) all other intellectual property rights in inventions, processes, developments, technology, software (both in source code and/or object code form), graphics, advertising materials, labels, package designs, website content, photographs, designs, data and databases and confidential, proprietary or non-public information; and, in each case, (a)–(e), including all registrations and applications to register the foregoing; and (ii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds (including in the form of royalty or settlement payments) therefrom.

"**Intercompany Note**" shall mean the amended and restated intercompany demand promissory note dated as of the Closing Date substantially in the form of Exhibit I delivered to the Administrative Agent.

"**Interest Period**" shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

"**Interim Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on an interim basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors), which order is not subject to a stay, injunction or other limitation not approved by the Administrative Agent and the Required Lenders (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Investment**" shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances, or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel, and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests, or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Parent in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment, or other amount received by any Credit Party or any of its Subsidiaries in respect of such Investment to the extent permitted under this Agreement (provided that, with respect to amounts received other than in the form of Cash Equivalents, such amount shall be equal to the Fair Market Value of such consideration).

"**Investment Grade Rating**" shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating organization.

"**Investment Grade Securities**" shall mean:

(i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Credit Parties and their Subsidiaries,

(iii) investments in any fund that invest at least 90% in investments of the type described in clauses (i) and (ii) which fund may also hold immaterial amounts of cash pending investment or distribution, and

(iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"**Irish Debenture**" shall mean the debenture governed by the laws of Ireland, executed by any Foreign Credit Party incorporated in Ireland or holding assets in Ireland in form and substance reasonably satisfactory to the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Irish Obligors**" shall mean Pointwell Limited, Skillsoft Limited, Skillsoft Ireland Limited, Thirdforce Group Limited, SSI Investments I Limited, SSI Investments II Limited and SSI Investments III Limited.

"Irish Security Documents" shall mean the Irish Debenture and the Irish Share Charge and Security Assignment.

"**Irish Share Charge and Security Assignment**" shall mean the share charge and security assignment governed by the laws of Ireland, to be executed by any Credit Party (other than an Irish Obligor) that holds shares in an Irish Obligor or that is owed a debt by an Irish Obligor in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Judgment Currency**" shall have the meaning provided in Section 13.19.

"**Legal Reservations**" shall mean (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing, (b) applicable Debtor Relief Laws, (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void, (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge, (e) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty or considered to be interest and thus void, (f) the principle that may prohibit restrictions in relation to a voluntary prepayment of loans bearing floating rates of interest and may restrict charging prepayment fees for a voluntary prepayment of such loans, (g) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, (h) the principle that the creation or purported creation of collateral over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which security has purportedly been created, (i) similar principles, rights and defenses under the laws of any relevant jurisdiction and (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions under this Agreement

"**Lender**" shall have the meaning provided in the preamble to this Agreement.

"**Lender Advisors**" shall mean (x) the Specified Lender Advisors, (y) the Crossholder Lender Advisors and (z) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders or the Ad Hoc Group of Crossholder Lenders and/or the Required Lenders.

"**Lender Default**" shall mean (i) the refusal or failure of any Lender to make available its portion of any incurrence of Loans, which refusal or failure is not cured within one business day after the date of such refusal or failure, unless such Lender notifies the Administrative Agent in writing that such refusal or failure is the result of such Lender's good faith determination that one or more conditions precedent to

funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in writing) has not been satisfied, (ii) the failure of any Lender to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one business day of the date when due, unless the subject of a good faith dispute, (iii) a Lender has notified, in writing, the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations under this Agreement or has made a public statement to that effect with respect to its funding obligations under this Agreement or a Lender has publicly announced that it does not intend to comply with its funding obligations under other loan agreements, credit agreements or similar facilities generally, (iv) a Lender has failed to comply with its funding obligations under this Agreement or (v) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

"**Lender-Related Distress Event**" shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a "**Distressed Person**"), a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, or a custodian, conservator, administrator, administrative receiver, receiver, receiver and manager, trustee or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, or such Distressed Person, or any Person that directly or indirectly controls such Distressed Person or is subject to a forced liquidation or such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.

"**LIBOR**" shall have the meaning provided in the definition of Eurocurrency Rate.

"**Lien**" shall mean with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the UCC (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease or a license to Intellectual Property be deemed to constitute a Lien.

"**Loan**" shall mean any Term Loan.

"**Loan Proceeds Account**" shall mean a Loan Proceeds Account with the Escrow Agent into which the proceeds of the Loans shall be deposited and retained subject to withdrawal thereof by the Borrower pursuant to a Withdrawal Notice for use in accordance with the terms hereof and, for the avoidance of doubt, the Approved Budget or return thereof to the Lenders upon the occurrence of the Maturity Date.

"**Master Agreement**" shall have the meaning provided in the definition of the term "Hedge Agreement."

"**Material Adverse Effect**" shall mean a material adverse effect on (a) the business, assets, operations, properties, or condition (financial or otherwise) of the Parent and its Subsidiaries, taken as a whole (excluding (i) any matters publicly disclosed in writing or disclosed to the Administrative Agent and the Lenders in writing prior to the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, (ii) any matters disclosed in the schedules hereto, (iii) any matters disclosed in any first day pleadings or declarations and (iv) the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, the events and conditions related and/or leading up thereto and the effects thereof and any action required to be taken

under the Credit Documents or under the DIP Order or the Canadian DIP Recognition Order), (b) the ability of the Credit Parties, taken as a whole, to perform any of its obligations under this Agreement or any of the other Credit Documents, (c) the Collateral (taken as a whole) or the Collateral Agent's Liens (on behalf of itself and the other Secured Parties) (taken as a whole) or (d) the rights of, benefits available to, or remedies of the Agents, the Escrow Agent or the Lenders under any of the Credit Documents.

"**Maturity Date**" shall mean the earliest to occur of (a) the date that is three months after the Petition Date; provided that by written consent, Required Lenders may extend such maturity date to that date that is four months after the Petition Date, (b) the date on which the Obligations become due and payable pursuant to this Agreement, whether by acceleration or otherwise, (c) the effective date of a Chapter 11 Plan for the Debtors, (d) the date of consummation of a sale of all or substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code, (e) the first Business Day on which the Interim Order or the Canadian Supplemental Order expires by its terms, unless the Final Order or the Canadian Final Order, as applicable, has been entered and become effective prior thereto, (f) conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or any Credit Party shall file a motion or other pleading seeking the conversion of the Chapter 11 Cases to Chapter 7 of the Bankruptcy Code unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), (g) proceedings under or pursuant to the BIA have been commenced in respect of Skillsoft Canada, Ltd. unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from either of the Specified Lender Advisors), (h) dismissal or termination of any of the Chapter 11 Cases or the Canadian Recognition Proceeding, unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), and (i) the Final Order or the Canadian Final Order (once entered) is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders) (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Maximum Non-Debtor Investment Cap**" shall mean $8,000,000.

"**Maximum Withdrawal Amount**" shall mean (i) from the Funding Date until the entry of the Final Order, $30,000,000 and (ii) thereafter, all remaining amounts held in the Loan Proceeds Account; provided that the maximum amount of any requested Withdrawal shall not exceed the amount that would cause Actual Liquidity to exceed $30,000,000.

"**Moody's**" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"**Mortgage**" shall mean a mortgage, deed of trust, deed to secure debt, trust deed, or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower, together with such terms and provisions as may be required by local laws, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

"**Mortgaged Property**" shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party, and each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.11 and 9.14.

"**Multiemployer Plan**" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which any Credit Party or ERISA Affiliate makes or is obligated to make contributions, or during the five preceding calendar years, has made or been obligated to make contributions.

"**Net Cash Proceeds**" shall mean, with respect to any Prepayment Event, (i) the cash proceeds (including payments from time to time in respect of installment obligations, if applicable, but only as and when received) received by or on behalf of any Credit Party in respect of a Prepayment Event (including (x) in the case of a casualty, insurance proceeds and (y) in the case of a condemnation or similar event, condemnation awards and similar payments), as the case may be, *less* (ii) the sum of:

(a) the amount, if any, of all taxes (including in connection with any repatriation of funds) paid or reasonably estimated to be payable by any Credit Party in connection with such Prepayment Event,

(b) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (a) above) (1) directly attributable to the assets that are the subject of such Prepayment Event and (2) retained by any Credit Party; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(c) the amount of any Indebtedness (other than under or pursuant to the Pre-Petition Credit Documents or any other Indebtedness outstanding as of the Petition Date) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(d) in the case of any Casualty Event, the amount of any proceeds that the Parent or any Subsidiary has reinvested in the business of the Parent or such Subsidiary solely in order to replace the property affected by such Casualty Event (the "**Deferred Net Cash Proceeds**"); provided that any portion of the Deferred Net Cash Proceeds that has not been so reinvested within 30 days after receipt thereof (or such longer date as the Required Lenders may agree in their sole discretion (which agreement may be communicated via email by any Specified Lender Advisor)) (the "**Reinvestment Period**") shall (1) be deemed to be Net Cash Proceeds of a Casualty Event on the first day after the Reinvestment Period ends and (2) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i),

(e) [reserved],

(f) in the case of any Asset Sale Prepayment Event, any funded escrow established pursuant to the documents evidencing any such sale or disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such sale or disposition; provided that the amount of any subsequent reduction of such escrow (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction solely to the extent that any Credit Party and/or any of its Subsidiaries receives cash in an amount equal to the amount of such reduction, and

(g) all reasonable and documented fees and out of pocket expenses paid by any Credit Party to third parties in connection with such Prepayment Event (for the avoidance of doubt, including, attorney's fees, investment banking fees, survey costs, title insurance premiums, and

related search and recording charges, transfer taxes, deed or mortgage recording taxes, underwriting discounts and commissions, other customary expenses, and brokerage, consultant, accountant, and other customary fees),

in each case only to the extent not already deducted in arriving at the amount referred to in clause (i) above.

"**Non-Bank Tax Certificate**" shall have the meaning provided in Section 5.4(e)(ii)(B)(3).

"**Non-Defaulting Lender**" shall mean and include each Lender other than a Defaulting Lender.

"**Non-U.S. Lender**" shall mean any Lender that is not a U.S. Person.

"**Notice of Borrowing**" shall have the meaning provided in Section 2.3(a).

"**Notice of Conversion**" shall have the meaning provided in Section 2.6(a).

"**Obligations**" shall mean all advances to, and debts, liabilities, obligations, covenants, and duties of, any Credit Party arising under any Credit Document or otherwise with respect to Loans, in each case, entered into with any Credit Party or any of its Subsidiaries, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy, examinership or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities, and other amounts payable by any Credit Party under any Credit Document.

"**OFAC Regulations**" shall have the meaning provided in Section 8.20(b).

"**Other Taxes**" shall mean all present or future stamp, registration, court or documentary Taxes or any other excise, intangible, mortgage recording, filing or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include (i) any Taxes that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("**Assignment Taxes**") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower or (ii) Excluded Taxes.

"**Overnight Rate**" shall mean, for any day, the Federal Funds Effective Rate.

"**Parent**" shall have the meaning provided in the preamble to this Agreement.

"**Parent Entity**" shall mean any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of the Parent.

"**Participant**" shall have the meaning provided in Section 13.6(c)(i).

"**Participant Register**" shall have the meaning provided in Section 13.6(c)(ii).

"**Participating Member State**" shall mean any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

"**Patriot Act**" shall have the meaning provided in Section 13.18.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"**Pension Plan**" shall mean any employee benefit pension plan (as defined in Section 3(2) of ERISA, but excluding any Multiemployer Plan) in respect of which any Credit Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Permitted Holders**" shall mean each of the Initial Investors and their respective Affiliates (other than any operating portfolio company of an Initial Investor) and members of management of the Parent (or its direct or indirect parent) who are holders of Equity Interests of the Parent (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates (other than any portfolio company of an Initial Investor) and such members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the total outstanding Equity Interests of the Parent or any other direct or indirect parent company of the Parent.

"**Permitted Investments**" shall mean:

(i) any Investment set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor); provided that any loans or advances to non-Debtor Subsidiaries shall not exceed the Maximum Non-Debtor Investment Cap;

(ii) any Investment in cash, Cash Equivalents, or Investment Grade Securities at the time such Investment is made;

(iii) investments (i) by any Credit Party in their respective Subsidiaries that are Credit Parties and (ii) by any Subsidiary of the Parent that is not a Credit Party in any of its Subsidiaries that is not a Credit Party;

(iv) loans or advances made (i) by any Credit Party to another Credit Party or (ii) made by any Subsidiary that is not a Credit Party to a Credit Party or any other Subsidiary that is not a Credit Party; provided that any such loans and advances made by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

(v) any Investment existing or contemplated on the Closing Date and, in each case, listed on Schedule 10.5;

(vi) Investments relating to any Receivables Subsidiary that, in the good faith determination of the board of directors of the Parent, are necessary or advisable to effect a Receivables Facility or any repurchases in connection therewith; provided that to the extent any Investments are made pursuant to this clause (vi), the amount of such Investments, together with the cumulative amount of all Investments made pursuant to this clause (vi), will be included in the report delivered pursuant to Section 9.18(c) that immediately follows the making of each such Investment;

(vii) investments necessary to effectuate the transactions contemplated by the RSA;

(viii) [reserved];

(ix) Investments consisting of extensions of trade credit in the ordinary course of business set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor);

(x) any Investment in an aggregate amount not to exceed $2,000,000; and

(xi) investments constituting deposits described in clause (i) of the definition of the term "Permitted Liens".

"**Permitted Liens**" shall mean, with respect to any Person:

(i) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness), or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent or deposits made to secure obligations arising from contractual or warranty refunds, in each case incurred in the ordinary course of business;

(ii) Liens imposed by a Requirement of Law, such as carriers', warehousemen's, materialmen's, repairmen's, builders' and mechanics' Liens, arising in the ordinary course of business, in each case for sums not yet overdue for a period of more than 60 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(iii) Liens imposed by a Requirement of Law for taxes, assessments, or other governmental charges not yet overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP or for property taxes on property that the Borrower or one of its Subsidiaries, has determined in its good faith to abandon as no longer economically practical in its business or commercially desirable to maintain if the sole recourse for such tax assessment, charge, levy, or claim is to such property or are not required to be paid pursuant to Section 8.11 or the nonpayment of which is permitted or required under the Bankruptcy Code or Canadian Bankruptcy and Insolvency Law;

(iv) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal, or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) deposits securing obligations arising after the Petition Date required under or imposed by the Bankruptcy Code;

(vi) Liens securing Indebtedness permitted to be outstanding pursuant to clauses (a) or (b), (f) or (g) of Section 10.1;

(vii) Liens set forth on Schedule 10.2;

(viii) the Carve Out, the CCAA Administration Charge and the CCAA DIP Lenders' Charge;

(ix) Liens securing cash management services in the ordinary course of business and consistent with past practices;

(x) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment, or storage of such inventory or other goods;

(xi) leases, subleases, licenses, or sublicenses (including of Intellectual Property) granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Parent or any Subsidiary, are consistent with past practices and do not secure any Indebtedness to the extent in existence on the Closing Date or approved by the Required Lenders prior to the existence of such lease, sublease, license or sublicense (which approval may be communicated via email by any Specified Lender Advisor);

(xii) Liens in favor of the Parent, the Borrower, or any other Guarantor;

(xiii) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(xiv) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business and in accordance with the Approved Budget;

(xv) non-exclusive licenses of Intellectual Property granted in the ordinary course of business and in existence on the Closing Date;

(xvi) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.1(f) or Section 11.1(k);

(xvii) Liens in favor of customs and revenue authorities arising by any Requirement of Law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(xviii) Liens, in accordance with the Interim Order or Final Order, as applicable, (a) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (b) [reserved], and (c) in favor of banking or other financial institutions or other electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;

(xix) Liens granted by the Interim Order or Final Order, as applicable, and created pursuant to the Credit Documents to secure the Obligations;

(xx) Liens permitted under the Cash Management Order;

(xxi) with respect to any Foreign Subsidiary, other Liens and privileges arising mandatorily by any Requirement of Law; and

(xxii) other Liens securing obligations which do not exceed $100,000.

For purposes of this definition, the term Indebtedness shall be deemed to include interest on such Indebtedness.

"**Permitted Variance**" shall mean, commencing with the applicable Permitted Variance Commencement Date, (a) in respect of Actual Operating Disbursement Amounts, 15% for each Variance Testing Period and (b) in respect of Actual Cash Receipts, 15% for each Variance Testing Period.

"**Permitted Variance Commencement Date**" shall mean (i) with respect to Actual Operating Disbursement Amounts, the third full calendar week following the Petition Date and (ii) with respect to Actual Cash Receipts, the third full calendar week following the Petition Date.

"**Person**" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust, or other enterprise or any Governmental Authority.

"**Petition Date**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Plan**" shall mean, other than any Multiemployer Plan, any employee benefit plan (as defined in Section 3(3) of ERISA), including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be reasonably likely to be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Platform**" shall have the meaning provided in Section 13.17(a).

"**PPSA**" shall mean the Personal Property Security Act (New Brunswick), as amended from time to time, together with all regulations made thereunder; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by (i) a Personal Property Security Act as in effect in a Canadian jurisdiction other than New Brunswick or Quebec, or (ii) the Civil Code of Quebec, then "PPSA" shall mean the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable.

"**Pre-Petition**" shall mean the time period ending immediately prior to the filing of the Chapter 11 Cases.

"**Pre-Petition Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Collateral**" shall mean collectively, the "Collateral" as defined in the Pre-Petition First Lien Credit Agreement and the "Collateral" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Credit Agreements**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Credit Documents**" shall mean collectively, the "Credit Documents" as defined in the Pre-Petition First Lien Credit Agreements and the "Credit Documents" as defined in the Pre-Petition Second Lien Credit Agreements.

"**Pre-Petition First Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition First Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Indebtedness**" has the meaning assigned to such term in Section 10.5(c).

"**Pre-Petition Lenders**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Obligations**" shall mean collectively, the "Obligations" as defined in the Pre-Petition First Lien Credit Agreement and the "Obligations" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Second Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Second Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Prepack Scheduling Motion**" shall mean a motion filed by the Borrower with the Bankruptcy Court seeking entry of an order of the Bankruptcy Court scheduling a combined hearing with respect to the confirmation of the Chapter 11 Plan and the approval of the Chapter 11 Plan Disclosure Statement, in form and substance reasonably satisfactory to Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepack Scheduling Order**" shall mean an order by the Bankruptcy Court granting the Prepack Scheduling Motion, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepayment Event**" shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event or Casualty Event.

"**Prohibited Transaction**" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"**Qualified PECs**" of any Person shall mean the yield bearing preferred equity certificates, yield free preferred equity certificates or other preferred equity certificates issued by any Credit Party (other than the Parent) to the Parent prior to the Closing Date and any other substantially similar preferred equity certificates.

"**Qualified Stock**" of any Person shall mean Capital Stock of such Person other than Disqualified Stock of such Person; provided that Qualified PECs shall constitute Qualified Stock.

"**Real Estate**" shall have the meaning provided in Section 9.1(e).

"**Receivables Facility**" shall mean the Credit Agreement (and related transaction documents) dated as of December 20, 2018 among Skillsoft Receivables Financing LLC, as borrower, the lenders from time to time party thereto and CIT Bank, N.A., as administrative agent and collateral agent, as such facility may be amended, restated, supplement or otherwise modified as of the Petition Date and as may be further amended, restated, supplemented or otherwise modified from time to time in a manner reasonably acceptable to the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor).

"**Receivables Subsidiary**" shall mean any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto or another Person formed for the purposes of engaging in a Receivables Facility in which a Credit Party or any of its Subsidiary makes an Investment and to which a Credit Party or any of its Subsidiary transfers accounts receivables and related assets. On the Closing Date, Skillsoft Receivables Financing LLC is the only Receivables Subsidiary.

"**Register**" shall have the meaning provided in Section 13.6(b)(iv).

"**Regulation T**" shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation U**" shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation X**" shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Reinvestment Period**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Related Fund**" shall mean, with respect to any Lender that is a Fund, any other Fund that is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of such entity that administers, advises or manages such Lender.

"**Related Parties**" shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"**Release**" shall mean any release, spill, emission, discharge, disposal, escaping, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the environment.

"**Remedies Notice Period**" shall have the meaning assigned to such term in the DIP Order.

"**Reorganization**" shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"**Reportable Event**" shall mean any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code), other than those events as to which notice is waived pursuant to DOL Reg. § 4043.

"**Required Lenders**" shall mean, at any date, Non-Defaulting Lenders having or holding 50.1% of the sum of (a) the Total Term Loan Commitment less the Term Loan Commitments of all Defaulting Lenders at such date and (b) the outstanding principal amount of the Term Loans (excluding Term Loans held by Defaulting Lenders) at such date; provided that Term Loan Commitments held by Affiliated Institutional Lenders shall not constitute more than 49.9% of the Term Loan Commitments in any calculation of the Required Lenders for the purpose of waivers or amendments under this Agreement.

"**Required Milestones**" shall mean the "Milestones" set forth in Section 9.21 of this Agreement and any "Milestones", or such similar term, as defined in the DIP Order or the RSA, as applicable.

"**Requirement of Law**" shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule, or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"**Resignation Effective Date**" shall have the meaning provided in Section 12.9(a).

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Restricted Investment**" shall mean an Investment other than a Permitted Investment.

"**Restricted Payment**" shall have the meaning provided in Section 10.5.

"**RSA**" shall mean the Restructuring Support Agreement dated as of June 12, 2020.

"**RSA Termination Event**" shall mean an event described under Section 5 of the RSA which with the passage of time or the taking of action thereunder would result in the termination of the RSA.

"**S&P**" shall mean Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"**Sale Leaseback**" shall mean any arrangement with any Person providing for the leasing by the Parent or any Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by any Credit Party or any of its Subsidiaries to such Person in contemplation of such leasing.

"**Sanction(s)**" shall mean any international economic sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"**SEC**" shall mean the Securities and Exchange Commission or any successor thereto.

"**Secured Parties**" shall mean the Administrative Agent, the Collateral Agent, the Escrow Agent and each Lender, in each case with respect to the DIP Facility and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the DIP Facility or the Collateral Agent with respect to matters relating to any Security Document.

"**Security Documents**" shall mean, collectively, the DIP Order, the Canadian DIP Recognition Order, the U.S. Pledge Agreement, the Foreign Pledge Agreements, the Irish Security Documents, the U.S. Security Agreement, the Foreign Security Agreements, the Mortgages, and each other security agreement or other instrument or document executed and delivered pursuant to Sections 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure the Obligations or to govern the lien priorities of the holders of Liens on the Collateral.

"**Specified Lender Advisors**" shall mean (i) Gibson, Dunn & Crutcher LLP, as legal counsel, (ii) Greenhill & Co., Inc., as financial advisor and (iii) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders and/or the Required Lenders, in each case, taken as a whole.

"**Sponsor**" shall mean any of Charterhouse and its Affiliates and funds managed or advised by Charterhouse or its Affiliates but excluding operating portfolio companies of any of the foregoing.

"**Spot Rate**" for any currency shall mean the rate determined by the Administrative Agent consistent with its policies and procedures for obtaining a spot rate for such currency with another currency.

"**SPV**" shall have the meaning provided in Section 13.6(g).

"**Stock Equivalents**" shall mean all securities convertible into or exchangeable for Capital Stock and all warrants, options, or other rights to purchase or subscribe for any Capital Stock, whether or not presently convertible, exchangeable, or exercisable.

"**Subsidiary**" of any Person shall mean and include (i) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Capital Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (ii) any limited liability company, partnership, association, joint venture, or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time or (iii) in the case of any Credit Party incorporated in Ireland, any subsidiary of that Credit Party within the meaning of Sections 7 and 8 of the Companies Act 2014 (as amended) of Ireland. Unless otherwise expressly provided, all references herein to a Subsidiary shall mean a Subsidiary of the Parent.

"**Successor Case**" shall mean (i) with respect to the Chapter 11 Cases, any subsequent proceedings under Chapter 7 of the Bankruptcy Code, and (ii) with respect to the Canadian Recognition Proceeding, any subsequent proceedings under Canadian Bankruptcy and Insolvency Law.

"**Taxes**" shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings (including backup withholding), fees, or other similar charges imposed by any Governmental Authority and any interest, fines, penalties, or additions to tax with respect to the foregoing.

"**Term Loan Commitment**" shall mean, in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(b) under the Caption "Term Loan Commitment" as such Lender's Term Loan Commitment. The aggregate amount of the Term Loan Commitments as of the Closing Date is $60,000,000.

"**Term Loans**" shall have the meaning set forth in the recitals.

"**Title Policy**" shall have the meaning provided in Section 9.14(c).

"**Total Credit Exposure**" shall mean, at any date, the sum, without duplication, of (i) [reserved], (ii) the Total Term Loan Commitment at such date, and (iii) without duplication of clause (ii), the aggregate outstanding principal amount of all Term Loans at such date.

"**Total Term Loan Commitment**" shall mean the sum of the Term Loan Commitments of all Lenders.

"**Transaction Expenses**" shall mean any fees, costs, or expenses incurred or paid by any Parent Entity, the Parent, the Borrower, or any of their respective Affiliates in connection with the Transactions, this Agreement, the other Credit Documents, and the transactions contemplated hereby and thereby.

"**Transactions**" shall mean, collectively, the transactions contemplated by this Agreement, the Chapter 11 Cases, the Canadian Recognition Proceeding, the consummation of any other transactions in connection with the foregoing (including the payment of the fees and expenses incurred in connection with any of the foregoing, including to fund any original issue discount or upfront fees).

"**Transferee**" shall have the meaning provided in Section 13.6(e).

"**Type**" shall mean as to any Term Loan, its nature as an ABR Loan or a Eurocurrency Loan.

"**UCC**" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of any provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"**Unrestricted Cash on Hand**" shall mean all cash of any Subsidiary other than the Actual Cash on Hand.

"**U.S.**" and "**United States**" shall mean the United States of America.

"**U.S. Credit Parties**" shall mean the Borrower and any other U.S. Subsidiaries that are Guarantors.

"**U.S. Lender**" shall have the meaning provided in Section 5.4(e)(ii)(A).

"**U.S. Person**" shall mean any Person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**U.S. Pledge Agreement**" shall mean the Debtor-in-Possession Pledge Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Security Agreement**" shall mean the Debtor-in-Possession Security Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Subsidiary**" shall mean any Subsidiary of the Parent that is organized under the laws of the United States, any state thereof, or the District of Columbia.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Variance Testing Period**" means, as applicable, the cumulative period of four weeks ending on July 10, 2020 and every other calendar week thereafter.

"**Withdrawal**" shall mean a withdrawal from the Loan Proceeds Account made in accordance with Section 7.

"**Withdrawal Date**" shall mean the date of any Withdrawal.

"**Withdrawal Liability**" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"**Withdrawal Notice**" shall mean a notice substantially in the form attached hereto as Exhibit C to be delivered by the Borrower to the Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Loan Proceeds Account, signed by a Financial Officer of the Borrower.

"**Withholding Agent**" shall mean any Credit Party, the Administrative Agent and, in the case of any U.S. federal withholding Tax, any other applicable withholding agent.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised

under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein", "hereto", "hereof", and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Section, Exhibit, and Schedule references are to the Credit Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(h) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(i) All references to "knowledge" or "awareness" of any Credit Party or any Subsidiary thereof means the actual knowledge of an Authorized Officer of such Credit Party or such Subsidiary.

1.3 Accounting Terms.

(a) Except as expressly provided herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a consistent manner. If at any time any change in GAAP would affect the computation of any financial ratio set forth in any Credit Document or any financial definition of any other provision of any Credit Document, and the Borrower or the Required Lenders shall so request, the Administrative Agent, the Required Lenders (which request may be communicated via email by any Specified Lender Advisor) and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to approval by the Required Lenders and the Borrower); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP before such change, and Borrower shall provide to the

Administrative Agent and the Lenders within five days after delivery of each certificate or financial report required hereunder that is affected thereby a written statement of a Financial Officer of the Borrower setting forth in reasonable detail the differences that would have resulted if such financial statements had been prepared without giving effect to such change. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Parent or any Subsidiary at "fair value", as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any valuation of Indebtedness below its full stated principal amount as a result of application of Financial Accounting Standards Board Accounting Standards Update No. 2015-03, it being agreed that such Indebtedness shall at all times be valued at the full stated principal amount thereof. Notwithstanding the foregoing, all liabilities under or in respect of any lease (whether now outstanding or at any time entered into or incurred) that, under GAAP as in effect on the Closing Date, would be accrued as rental and lease expense and would not constitute a capital lease obligation in accordance with GAAP as in effect on the Closing Date shall continue to not constitute a capital lease obligation, in each case, for purposes of the covenants set forth herein and all defined terms as used therein.

1.4 [Reserved].

1.5 References to Agreements Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents), and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases, but only to the extent that such amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting such Requirement of Law.

1.6 [Reserved].

1.7 Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission, or any other matter related to the rates in the definition of Eurocurrency Rate or with respect to any comparable or successor rate thereto.

1.8 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, Contractual Requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Section 9.9 or any clause or subsection of Sections 10.1, 10.2, 10.3, 10.4, 10.5 or 0 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

1.12 [Reserved].

1.13 [Reserved].

1.14 [Reserved].

1.15 Effectuation of Transactions. All references herein to the Parent and the other Subsidiaries shall be deemed to be references to such Persons, and all the representations and warranties of the Credit Parties contained in this Agreement and the other Credit Documents shall be deemed made, in each case, after giving effect to the Transactions to occur on the Closing Date, unless the context otherwise requires.

1.16 [Reserved].

1.17 [Reserved].

Notwithstanding anything else in the Credit Documents, any reference in any of the Credit Documents to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Lien created by any of the Credit Documents to any Permitted Lien.

Section 2. Amount and Terms of Credit.

2.1 Commitments. Subject to and upon the terms and conditions herein set forth and in the DIP Order and in accordance therewith, each Lender severally, and not jointly, agrees to make the Term Loans to the Borrower in an amount equal to such Lender's Commitment in a single borrowing within three Business Days of the date of the entry of the Interim Order (such date, the "**Funding Date**"). Each Lender's Commitment shall automatically be reduced by the amount of Loans funded in respect thereof on the Funding Date; provided that, notwithstanding anything herein to the contrary, all such Commitments shall terminate automatically and be reduced to zero on June [●], 2020 to the extent that the Funding Date has not occurred on or prior to such date (or such later date as agreed to by the Borrower and the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors)). Such Term Loans (i) will at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurocurrency Loans; provided that all Term Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term Loans of the same Type, (ii) may be repaid or prepaid (without premium or penalty) in accordance with the provisions hereof, but once repaid or prepaid, may not be reborrowed, (iii) shall not exceed for any such Lender the Term Loan Commitment of such Lender, (iv) shall not exceed in the aggregate the Total Term Loan Commitments and (v) shall be funded into the Loan Proceeds Account

on the Funding Date in accordance with Section 2.4(d). The Term Loans shall be available in Dollars and not later than the Maturity Date, all then unpaid Term Loans shall be repaid in full in Dollars.

2.2 [Reserved].

2.3 Notice of Borrowing.

(a) The Borrower shall give the Administrative Agent at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least one Business Days' prior written notice in the case of a Borrowing of Term Loans to be made on the Closing Date or three (3) Business Days in the case of a Borrowing of Term Loans to be made after the Closing Date (which notice shall be delivered electronically in .pdf or other electronic imaging format acceptable to the Administrative Agent). Such notice (a "**Notice of Borrowing**") shall specify (i) the aggregate principal amount of the Term Loans to be made, (ii) the date of the Borrowing, and (iii) whether the Term Loans shall consist of ABR Loans and/or Eurocurrency Loans and, if the Term Loans are to include Eurocurrency Loans, the Interest Period to be initially applicable thereto (which shall be one month). If no election as to the Type of Borrowing is specified in any such notice, then the requested Borrowing shall be a Eurocurrency Borrowing. If no Interest Period with respect to any Borrowing of Eurocurrency Loans is specified in any such notice, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.3(a) (and the contents thereof), and of each Lender's pro rata share of the requested Borrowing.

2.4 Disbursement of Funds.

(a) No later than 1:00 p.m. (New York City time) on the Funding Date, each Lender shall make available its pro rata portion, if any, of the Borrowing requested to be made on such date in the manner provided below; provided that on the Funding Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrower, and the Administrative Agent for the purpose of consummating the Transactions.

(b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments, and in immediately available funds, to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will deposit the aggregate amounts so made available into the Loan Proceeds Account in Dollars in accordance with Section 2.4(d). Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in the applicable currency. The Administrative Agent shall also be entitled to recover from such Lender or any Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

(d) Upon receipt of all requested funds pursuant to Section 2.4(b), the Administrative Agent will promptly (i) in accordance with the Flow of Funds Statement, (I) remit to the Borrower from such amounts, all fees and expenses of counsel of the Agents, the Escrow Agent and the Specified Lender Advisors (which the Borrower shall immediately remit by wire transfer such amounts to such counsel and advisors in accordance with the Flow of Funds Statement) and (II) deduct and apply all fees payable to the Agents and the Escrow Agent on the Funding Date in accordance with the Flow of Funds Statement (including for purposes of clause (I) and (II) above in connection with any fronting arrangement), (ii) in accordance with the Flow of Funds Statement, and subject to Sections 6 and Section 7, remit to the Borrower from such amounts the amount requested by the Borrower in the Withdrawal Notice, and (iii) remit the remaining amounts by promptly crediting such amount, in like funds, to the Loan Proceeds Account. The Loans shall be deemed made by the Lenders when so remitted and applied and so deposited to such account. For the avoidance of doubt, the full amount of all Loans will begin to accrue interest on the Funding Date.

(e) For the avoidance of doubt, the Administrative Agent shall have no Commitments to make Loans in its capacity as the Administrative Agent and the Administrative Agent's requirement to remit the Loan proceeds received from the Lenders in accordance with the provisions hereof shall be limited to the funds that it receives from the Lenders.

2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Maturity Date, the then outstanding Term Loans in Dollars.

(b) [Reserved].

(c) [Reserved].

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.6(a), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is a Term Loan, the Type of each Loan made, the currency in which it is made, the name of the Borrower and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that in the event of any inconsistency between the Register and any such account or subaccount, the Register shall govern, provided, further, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any

manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

(g) The Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Closing Date, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit G, as applicable, for the sole purpose of evidencing the Loans owing to such Lender. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 13.6) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

2.6 Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 (or the Dollar Equivalent thereof) of the outstanding principal amount of Term Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any Eurocurrency Loans as Eurocurrency Loans for an additional Interest Period; provided that (i) no partial conversion of Eurocurrency Loans shall be permitted, (ii) ABR Loans may not be converted into Eurocurrency Loans if an Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) Eurocurrency Loans may not be continued as Eurocurrency Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion shall be effected by the Borrower by giving the Administrative Agent notice at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least (i) three Business Days prior, in the case of a conversion to Eurocurrency Loans (other than in the case of a notice delivered on the Funding Date, which shall be deemed to be effective on the Funding Date), or (ii) three Business Days prior in the case of a conversion into ABR Loans (each such notice, a "**Notice of Conversion**" substantially in the form of Exhibit K) specifying the Loans to be so converted, the Type of Loans to be converted into and, if such Loans are to be converted into a Eurocurrency Loans, the Interest Period to be initially applicable thereto will be one month's duration. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans. Until the Maturity Date, any Eurocurrency Loans will be continued as Eurocurrency Loans with an Interest Period of one month's duration.

(b) If any Event of Default is in existence at the time of any proposed continuation of any Eurocurrency Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such Eurocurrency Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of Eurocurrency Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrower shall be deemed to have elected to convert such Borrowing of Eurocurrency Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.

2.7 Pro Rata Borrowings. Each Borrowing of Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Term Loan Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to

be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation, under any Credit Document.

2.8 Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for ABR Loans *plus* the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each Eurocurrency Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for Eurocurrency Loans *plus* the relevant Eurocurrency Rate.

(c) Notwithstanding the foregoing, unless otherwise elected by the Required Lenders (which election not to impose the default interest rate set forth in this Section 2.8(c) may be communicated via an email from any of the Specified Lender Advisors), upon the occurrence and during the continuation of an Event of Default, Loans and all other Obligations overdue hereunder shall bear interest, after as well as before judgment, at a rate per annum equal to 2% plus the rate otherwise applicable thereto.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in the same currency in which the Loan is denominated; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, monthly in arrears on the last Business Day of each month of the Borrower, (ii) in respect of each Eurocurrency Loan, on the last day of each Interest Period applicable thereto, and (iii) in respect of each Loan, (A) on any prepayment in respect thereof, (B) at maturity (whether by acceleration or otherwise), and (C) after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of Eurocurrency Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion in respect of the making of, or conversion into or continuation as, a Borrowing of Eurocurrency Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice of the Interest Period applicable to such Borrowing, which Interest Period shall be a one month period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of Eurocurrency Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of Eurocurrency Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period in respect of a Eurocurrency Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day; and

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any Eurocurrency Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

2.10 Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or the Required Lenders and (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Eurocurrency Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such Eurocurrency Loan are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the applicable interbank market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurocurrency Rate; or

(ii) at any time, that such Lenders shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Eurocurrency Loans (including any increased costs or reductions attributable to Taxes, other than any increase or reduction attributable to Indemnified Taxes or Other Taxes) because of any Change in Law; or

(iii) at any time, that the making or continuance of any Eurocurrency Loan has become unlawful by compliance by such Lenders in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the applicable interbank market;

(such Loans, "**Impacted Loans**"), then, and in any such event, such Required Lenders (or the Administrative Agent or the Required Lenders, as applicable, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower, and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, Eurocurrency Loans shall no longer be available until such time as the Administrative Agent or the Required Lenders, as applicable, notifies the Borrower, the Administrative Agent (if applicable) and the Lenders that the circumstances giving rise to such notice by the Administrative Agent or the Required Lenders, as applicable, no longer exist (which notice shall be given at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrower with respect to Eurocurrency Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the

case of clause (ii) above, the Borrower shall pay to such Lenders, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Required Lenders, in their reasonable discretion shall determine) as shall be required to compensate such Lenders for such actual increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lenders, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lenders shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto), and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) promptly and, in any event, within the time period required by law.

Notwithstanding the foregoing, if the Administrative Agent or the Required Lenders, as applicable, has made the determination described in Section 2.10(a)(i)(x), the Required Lenders, in consultation with the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent or the Required Lenders, as applicable, revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Required Lenders or the affected Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(b) At any time that any Eurocurrency Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a Eurocurrency Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if a Notice of Borrowing or Notice of Conversion with respect to the affected Eurocurrency Loan has been submitted pursuant to Section 2.3 but the affected Eurocurrency Loan has not been funded or continued, cancel such requested Borrowing by giving the Administrative Agent written notice thereof on the same date that the Borrower was notified by Lenders pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected Eurocurrency Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such Eurocurrency Loan into an ABR Loan; provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy or liquidity of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy or liquidity occurring after the Closing Date, has or would have the effect of reducing the actual rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such actual additional amount or amounts as will compensate such Lender or its parent for such actual reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date or to the extent such Lender is not imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Borrower hereunder) under comparable syndicated credit facilities similar to the DIP Facility. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written

notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) With respect to any alternative interest rate selected by the Required Lenders pursuant to this Section 2.10: (i) no Agent or the Escrow Agent shall be bound to follow or agree to any modification to this Agreement or any other Credit Document or any such rate that would increase or materially change or affect the duties, obligations or liabilities of any Agent or the Escrow Agent (including without limitation the imposition or expansion of discretionary authority), or reduce, eliminate, limit or otherwise change any right, privilege or protection of any Agent or the Escrow Agent, or would otherwise materially and adversely affect any Agent or the Escrow Agent, in each case in its reasonable judgment, without its express written consent (such consent not to be unreasonably withheld) and (ii) any such alternative interest rate shall be administratively feasible for the Administrative Agent.

2.11 Compensation. If (a) any payment of principal of any Eurocurrency Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Eurocurrency Loan as a result of a payment or conversion pursuant to Sections 2.5, 2.6, 2.10, 5.1, 5.2, or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of Eurocurrency Loans is not made as a result of a withdrawn Notice of Borrowing or a failure to satisfy borrowing conditions, (c) any ABR Loan is not converted into a Eurocurrency Loan as a result of a withdrawn Notice of Conversion, (d) any Eurocurrency Loan is not continued as a Eurocurrency Loan, as the case may be, as a result of a withdrawn Notice of Conversion or (e) any prepayment of principal of any Eurocurrency Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), promptly pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Eurocurrency Loan. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender as specified in this Section 2.11 and setting forth in reasonable detail the manner in which such amount or amounts were determined shall be delivered to the Borrower and shall be conclusive, absent manifest error.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or other material economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.10 or 5.4.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Sections 2.10 or 2.11 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Sections 2.10 or 2.11, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of notice to the Borrower; provided

that, if the circumstances giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

2.14 [Reserved].

2.15 [Reserved]

2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Requirement of Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.9 shall be applied at such time or times as follows: *first*, as may be determined by the Administrative Agent to the payment of any amounts owing by such Defaulting Lender to any Agent or the Escrow Agent hereunder; *second*, [reserved]; *third*, [reserved]; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) [reserved]; *sixth*, to the payment of any amounts owing to the Borrower, the Lenders as a result of any judgment of a court of competent jurisdiction obtained by the Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 4 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower notifies the Administrative Agent in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other

Lenders or take such other actions as may be necessary to cause the Term Loans to be held on a pro rata basis by the Lenders in accordance with their percentages of the Term Loan Commitments, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 3. [Reserved]

Section 4. Fees

4.1 Fees.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars, for the account of each Lender (in each case pro rata according to the respective Commitments of all such Lenders), a commitment fee (the "**Commitment Fee**") on the Funding Date equal to 3.00% of the aggregate principal amount of the Term Loans.

(b) The Borrower agrees to pay (i) to the Agents and the Lenders, as applicable, for their respective accounts, the fees and other amounts due in accordance with the terms of the Fee Letter in accordance with the applicable terms thereof and (ii) to the Escrow Agent the fees set forth in the fee letter referenced in the Escrow Agreement.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this Section 4.1, except as otherwise set forth in Section 2.16(a)(iii)(B).

Section 5. Payments

5.1 Voluntary Prepayments.

(a) The Borrower shall have the right to prepay Term Loans, in each case, without premium or penalty, in whole or in part from time to time on the following terms and conditions: (1) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice of the Borrower's intent to make such prepayment, the amount of such prepayment and (in the case of Eurocurrency Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 12:00 Noon (New York City time) (i) in the case of Eurocurrency Loans, three Business Days prior to the date of such prepayment, (ii) [reserved], (iii) in the case of ABR Loans, two Business Days prior to the date of such prepayment or (iv) [reserved], (2) each partial prepayment of (i) any Borrowing of Eurocurrency Loans shall be in a minimum amount of $5,000,000 (or the Dollar Equivalent thereof) and in multiples of $1,000,000 (or the Dollar Equivalent thereof) in excess thereof, (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $500,000 in excess thereof, and (iii) [reserved]; and (3) in the case of any prepayment of Eurocurrency Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrower shall, promptly after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required pursuant to Section 2.11.

5.2 Mandatory Prepayments.

(a) Term Loan Prepayments. Subject in all respects to the DIP Order, on each occasion that a

Prepayment Event occurs, the Borrower shall, within two Business Days after receipt of the Net Cash Proceeds of any Prepayment Event (or, in the case of Deferred Net Cash Proceeds, within two Business Days after the Reinvestment Period ends), prepay, in accordance with clause (c) below, Term Loans with an equivalent principal amount equal to 100% of the Net Cash Proceeds from such Prepayment Event, unless otherwise approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors). No prepayment pursuant to this Section 5.2(a) shall be required in respect of the sale or disposition of any Foreign Subsidiary's assets to the extent such prepayment would result in material adverse tax consequences (as reasonably determined by the Borrower in consultation with the Administrative Agent) or would be prohibited or restricted by applicable law.

(b) Reinvestment Period. Until the Reinvestment Period ends, the Parent or any Subsidiary shall apply the Net Cash Proceeds from such Casualty Event solely to reinvest in the business of the Parent or such Subsidiary in order to replace the property affected by such Casualty Event; provided that the Parent and the Subsidiaries will be deemed to have complied with this Section 5.2(b) if and to the extent that, within the Reinvestment Period after the Casualty Event that generated the Net Cash Proceeds, the Parent or such Subsidiary has reinvested such proceeds within the Reinvestment Period and, in the event any such proceeds are not reinvested within the Reinvestment Period, the Parent or such Subsidiary prepays the Loans in accordance with Section 5.2(a).

(c) Application to Repayment Amounts. Each prepayment required by Section 5.2(a) shall be allocated pro rata among the Loans based on the amounts due thereunder. With respect to each such prepayment, the Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 5.2(a) two Business Days after the date of realization or receipt of such Net Cash Proceeds. Each such notice shall be irrevocable, shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment, shall be substantially in the form of Exhibit D and which shall include a calculation of the amount of such prepayment to be applied to the Term Loans requesting that the Administrative Agent provide notice of such prepayment to each Lender.

5.3 Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto not later than 1:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such Loans are denominated and all other payments under each Credit Document shall, unless otherwise specified in such Credit Document, be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York City time) or, otherwise, on the next Business Day in the Administrative Agent's sole discretion) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day for purposes of calculating interest thereon. Except as otherwise provided herein, whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next

succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

(c) Pre-Default Allocation of Payments. At all times when Section 5.3(d) does not apply and except as otherwise expressly provided herein, monies to be applied to the Obligations and the Pre-Petition Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of the Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent in their capacity as such pursuant to any Credit Document, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(vii) *Last*, the balance, if any, to the Borrower or as otherwise required by law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category.

(d) Post-Default Allocation of Payments. Notwithstanding anything herein to the contrary, after the occurrence and during the continuation of an Event of Default, the Required Lenders may elect, in lieu of the allocation of payments set forth in Section 5.3(a), that monies to be applied to the Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall, to the extent elected by the Required Lenders (in writing to the Administrative Agent), be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent pursuant to any Credit Document in their capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of the Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to pay any other Obligations until paid in full;

(vii) *Seventh*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(viii) *Last*, the balance, if any, after Full Payment of the Obligations, to the Borrower or as otherwise required by any Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. The allocations set forth in this Section 5.3(d) may be changed by agreement among the Agents, the Escrow Agent and the Lenders without the consent of any Credit Party and are subject to Section 2.16 (regarding Defaulting Lenders); *provided* that, notwithstanding the foregoing, no amendment to Section 5.3(d) shall be permitted without the consent of the Borrower which would modify the priority of the Pre-Petition Obligations set forth therein. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. Appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Obligations otherwise set forth above in this Section 5.3(d). For the avoidance of doubt, nothing contained in this Agreement shall relieve or waive payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements.

(e) If, except as otherwise expressly provided herein (subject in all respects to the Carve Out and the CCAA Administration Charge), any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other similarly situated Lender, then the Lender receiving such

greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to any Credit Party or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(g) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in any order determined by the Administrative Agent in its discretion.

5.4 Net Payments.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes.

(ii) If any Credit Party, the Administrative Agent or any other applicable Withholding Agent shall be required by applicable law to withhold or deduct any Taxes from any payment, then (A) such Withholding Agent shall withhold or make such deductions as are reasonably determined by such Withholding Agent to be required by applicable law, (B) such Withholding Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after such required withholding or deductions have been made (including any such withholding or deductions applicable to additional sums payable under this Section 5.4) each Lender (or, in the case of a payment to the Administrative Agent for its own account,

the Administrative Agent) receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of clause (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or timely reimburse the Administrative Agent or any Lender for the payment of any Other Taxes.

(c) Tax Indemnifications. Without limiting the provisions of clause (a) or (b) above, the Borrower shall indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after demand therefor, for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority as provided in this Section 5.4, the Borrower shall deliver to the Administrative Agent and the Lenders the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders and Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to withholding Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) whenever a lapse of time or change in circumstances renders such documentation obsolete, expired or inaccurate in any respect and (iii) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent. Each such Lender shall also promptly notify in writing the Borrower and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

Notwithstanding anything to the contrary in this Section 5.4, no Lender or the Administrative Agent shall be required to deliver any documentation that it is not legally eligible to deliver.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person (a "**U.S. Lender**") shall deliver to the Borrower and the Administrative Agent executed copies of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:

(1) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(2) executed copies of Internal Revenue Service Form W-8ECI (or any successor form thereto);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit J-1, J-2, J-3 or J-4, as applicable, (a "**Non-Bank Tax Certificate**"), to the effect that such Non-U.S. Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and that no payments under any Credit Document are effectively connected with such Non-U.S. Lender's conduct of a United States trade or business and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor thereto);

(4) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), Internal Revenue Service Form W-8IMY (or any successor thereto), accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue service Form W-8BEN or W-8BEN-E and/or Internal Revenue Service Form W-9 (in each case, or any successor thereto), and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the portfolio interest exemption, a Non-Bank Tax Certificate of such beneficial owner(s)) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Tax Certificate(s) may be provided by the Non-U.S. Lender on behalf of the direct or indirect partner(s)); or

(5) executed copies of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

(C) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) On or before the date the Administrative Agent (or any successor thereto) becomes a party to this Agreement, such Administrative Agent shall provide to the Borrower two duly-signed properly completed copies of the documentation prescribed in clause (A) or (B) below, as applicable (together with any required attachments): (A) IRS Form W-9 or any successor thereto, or (B)(x) IRS Form W-8ECI, or any successor thereto with respect to payments, if any, received by the Administrative Agent for its own account, and (y) with respect to payments received on account of any Lender, executed copies of IRS Form W-8IMY (or any successor form) certifying that the Administrative Agent is either (a) a "qualified intermediary" or (b) a "U.S. branch" and that payment it receives for others are not effectively connected with the conduct of a trade or business in the United States, in each case certifying that the Administrative Agent is assuming primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the accounts of others, with the effect that the Borrower can make payments to the Administrative Agent without deduction or withholding of any Taxes imposed by the United States. At any time thereafter, the Administrative Agent shall update documentation previously provided (including, if applicable, any successor forms thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. The Administrative Agent shall also promptly notify the Borrower in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section 5.4, the Administrative Agent or such Lender (as applicable) shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Parties under this Section 5.4 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be,

shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the Administrative Agent or any Lender in a less favorable net after-Tax position than the Administrative Agent or any Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Credit Party or any other Person.

(g) If the Administrative Agent is a U.S. Person, it shall provide the Borrower with two duly completed original copies of Internal Revenue Service Form W-9. If the Administrative Agent is not a U.S. Person, it shall provide applicable Internal Revenue Service Form W-8 (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Lenders.

(h) [Reserved].

(i) Each party's obligations under this Section 5.4 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under the Credit Documents.

5.5 Computations of Interest and Fees.

(a) Except as provided in the next succeeding sentence, interest on Eurocurrency Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.

(c) For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 360-day or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or such other period of time, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment

to the maximum extent permitted by or consistent with applicable laws, rules, and regulations (the "**Maximum Rate**").

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8; provided that to the extent lawful, the interest or other amounts that would have been payable but were not payable as a result of the operation of this Section shall be cumulated and the interest payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.

Without limiting the generality of the foregoing, if any provision of this Agreement would oblige any Credit Party that is organized under the laws of Canada or any Province thereof to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

(i) first, by reducing the amount or rate of interest; and

(ii) thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

5.7 Super Priority Nature of Obligations and Collateral Agent's Liens; Payment of Obligations.

(a) The priority of the Collateral Agent's Liens on the Collateral, claims and other interests shall be as set forth in the DIP Order and the Canadian DIP Recognition Order (and, for the avoidance of doubt, are subject to the Carve Out).

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Credit Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without application to or order of the Bankruptcy Court or the Canadian Bankruptcy Court.

Section 6. Conditions Precedent.

6.1 Conditions Precedent to the Closing Date. The effectiveness of this Agreement and the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion and, with respect to any condition affecting the rights and duties of the Administrative Agent, the Administrative Agent, any which waiver by the Required Lenders, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Credit Documents. This Agreement and the other Credit Documents shall be satisfactory to the Required Lenders and delivered to the Administrative Agent and the Specified Lender Advisors and there shall have been delivered to the Administrative Agent and the Specified Lender Advisors a duly executed counterpart of this Agreement and each of the other Credit Documents by the applicable parties thereto (which may include telecopy transmission of a signed signature page).

(b) Orders. (i) The Bankruptcy Court shall have entered the Interim Order, no later than three (3) Business Days after the Petition Date, and such order shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent); (ii) the Administrative Agent and the Lenders shall have received drafts of the "first day" pleadings for the Chapter 11 Cases and all materials for the Canadian Recognition Proceeding, in each case, in form and substance satisfactory to the Administrative Agent and the Required Lenders, not later than a reasonable time in advance of the Petition Date for the Administrative Agent and the Required Lenders' counsel to review and analyze the same; (iii) all motions, orders (including the "first day" orders) and other documents to be filed with or submitted to the Bankruptcy Court on the Petition Date or the Canadian Bankruptcy Court on the CCAA Filing Date shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and (iv) (a) all "first day" orders shall have been approved and entered by the Bankruptcy Court except as otherwise agreed by the Required Lenders.

(c) Initial Approved Budget; Cash Flow Forecast. The Administrative Agent and the Specified Lender Advisors shall have received (i) the Initial Approved Budget and (ii) the initial Cash Flow Forecast, each in form and substance acceptable to the Lenders.

(d) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Closing Certificate. The Administrative Agent shall have received a certificate dated as of the Closing Date and signed by a Financial Officer of the Borrower confirming compliance with Sections 6.1(d), 6.1(h) and 6.1(k), in form and substance satisfactory to the Administrative Agent and the Required Lenders.

(f) Authorization of Proceedings of the Parent, the Borrower and the Guarantors; Corporate Documents. The Administrative Agent shall have received a certificate of each Credit Party dated as of the Closing Date, which shall contain appropriate attachments, including (i) a copy of the resolutions, minutes or written consents of the board of directors, the sole director or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery, and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrower,

the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement, Articles of Association or other comparable organizational documents, as applicable, of each Credit Party as in effect on the Closing Date, (iii) signature, specimen signatures and/or incumbency certificates (or other comparable documents evidencing the same) of the Authorized Officers of each Credit Party executing any Credit Document to which it is a party and (iv) good standing certificates (to the extent applicable) in the respective jurisdictions of organization of each Credit Party.

(g) Fees. All Fees due and payable on or before the Closing Date, including, to the extent invoiced not less than one Business Day prior to the Closing Date, reimbursement or payment of the reasonable and documented expenses (including the premiums and recording taxes and fees and the reasonable and documented fees and expenses of the Specified Lender Advisors, as counsel to the Ad Hoc Group of Lenders, the Lender Advisors, the Agent Advisors and counsel to the Escrow Agent, and the fees and expenses of any local counsel of the Lenders, shall be paid (or will be paid from the proceeds of the Loans)), in each case, to the extent required to be reimbursed or paid by the Credit Parties hereunder or under any other Credit Document.

(h) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(i) Other Filings. Each of the Chapter 11 Plan, the Chapter 11 Plan Disclosure Statement, and Solicitation Motion (as defined in the RSA) shall have been or be concurrently filed with the Bankruptcy Court.

(j) Patriot Act. The Administrative Agent (or its counsel) shall have received at least three Business Days prior to the Closing Date such documentation and information as is reasonably requested in writing at least ten Business Days prior to the Closing Date by the Administrative Agent about the Credit Parties under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

(k) Assignment. Evidence that Wilmington Savings Fund Society, FSB has been assigned as administrative agent and collateral agent under each Pre-Petition Credit Agreement and the other Pre-Petition Credit Documents, such evidence in form and substance satisfactory to the Lenders and the Administrative Agent.

(l) No Default. On the Closing Date and immediately after giving effect to any Loans made on the Closing Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

For purposes of determining compliance with the conditions specified in this Section 6.1 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

6.2 Conditions Precedent to the Funding Date. In addition to the conditions set forth in Section 6.1, the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion, any which waiver, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the Funding Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(b) Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Term Loans meeting the requirements of Section 2.3(a).

(c) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA, except as otherwise waived in accordance with the terms thereof.

(d) No Default. On the Funding Date and immediately after giving effect to any Loans made on the Funding Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(e) Flow of Funds Statement. The Administrative Agent shall have received a Flow of Funds Statement, in form and substance satisfactory to the Administrative Agent and the Required Lenders.

Section 7. Conditions Precedent to Withdrawal.

7.1 Conditions Precedent to Withdrawal. Any Withdrawal on or after the Funding Date is subject to the satisfaction or waiver of the following additional conditions precedent:

(a) No Default. At the time of and immediately after giving effect to such Withdrawal and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(b) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of such Withdrawal with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(c) Bankruptcy Proceedings. (i) The DIP Order, the Canadian Interim Orders and the Canadian Final Order (to the extent required to be in effect on the date of such Withdrawal) shall not have been vacated, stayed, reversed, modified, or amended, in whole or in any part, without the Administrative Agent's and the Required Lenders' written consent and shall otherwise be in full force and effect; (ii) no

motion for reconsideration of the Final Order and/or the Canadian Final Order shall have been timely filed by a Debtor or any of their Subsidiaries; and (iii) no appeal of the Final Order and/or the Canadian Final Order shall have been timely filed.

(d) RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Fee. All fees and expenses required to be paid under the Credit Documents shall have been paid (or will be paid from the proceeds of the Loans).

(f) Approved Budget. The proceeds of the Loans shall be used as set forth in the Approved Budget (subject to the Permitted Variance).

(g) Withdrawal Notice. The Borrower has delivered to the Administrative Agent (for distribution to the Lenders and the Specified Lender Advisors) an executed Withdrawal Notice, executed by the Borrower requesting the proposed Withdrawal thereunder by no later than 1:00 p.m. (New York City time) on the Wednesday of the week (provided that in connection with the Funding Date, such Withdrawal notice may be provided at least one Business Day prior to the Funding Date) for a proposed funding of such Withdrawal on Friday of such week, which Withdrawal Notice (other than the Withdrawal Notice delivered on the Funding Date) will set forth the Actual Liquidity as of the Friday prior to the date of such Withdrawal Notice.

(h) Maximum Withdrawal. The amount of such Withdrawal does not exceed the Maximum Withdrawal Amount.

(i) Orders. Other than in connection with the Withdrawal on the Funding Date, the Canadian Bankruptcy Court shall have entered the Canadian Interim Orders, and such orders shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent).

Notwithstanding the foregoing, if the Required Lenders determine that the Borrower has failed to satisfy the conditions precedent set forth in this Section 7 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through the Specified Lender Advisors), the Administrative Agent (at the Direction of the Required Lenders) shall communicate the same to the Escrow Agent.

On any date on which the Loans shall have been accelerated, any amounts remaining in the Loan Proceeds Account, as the case may be, may be applied by the Administrative Agent to reduce the Loans then outstanding, in accordance with Section 5.3(d). None of the Credit Parties shall have (and each Credit Party hereby affirmatively waives) any right to withdraw, claim or assert any property interest in any funds on deposit in the Loan Proceeds Account upon the occurrence and continuance of any Default or Event of Default (except to fund the Carve Out).

The acceptance by the Borrower of the Loans or proceeds of a Withdrawal shall conclusively be deemed to constitute a representation by the Borrower that each of the conditions precedent set forth in Section 7 shall have been satisfied in accordance with its respective terms or has been irrevocably and expressly waived by the applicable Person; provided, however, that the making of any such Loan or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Administrative Agent, any Lender or other Secured Party of the

provisions of this Section 7 on such occasion or on any future occasion or operate as a waiver of (i) the right of Administrative Agent and Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent, the Escrow Agent or any Lender as a result of any such failure of the Credit Parties to comply with such conditions precedent.

Section 8. Representations and Warranties

In order to induce the Lenders to enter into this Agreement and to make the Loans provided for herein, the Parent and the Borrower make the following representations and warranties to each Agent, the Escrow Agent and the Lenders on the date of each Credit Event (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

8.1 Corporate Status. Each Credit Party (a) is a duly organized and validly existing corporation, limited liability company or other entity in good standing (if applicable) under the laws of the jurisdiction of its organization and subject to entry of the Interim Order or the Final Order, as applicable, and subject to any restrictions arising on account of any Credit Party's status as a "debtor" under the Bankruptcy Code, has the corporate, limited liability company or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified or authorized, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

8.2 Corporate Power and Authority. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Document constitutes the legal, valid, and binding obligation of each Credit Party enforceable in accordance with its terms, subject to the Legal Reservations.

8.3 No Violation. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the other transactions contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default (that is not excused by the Bankruptcy Code) under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of its Subsidiaries (other than Liens created under the Credit Documents, the DIP Order, any restrictions arising on account of such Credit Party's status as a "debtor" under the Bankruptcy Code, or Permitted Liens) pursuant to, the terms of any indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other instrument to which such Credit Party or any of its Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than, in the case of clause (b), to the extent any such breach, default or Lien would not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws, articles or other organizational documents of such Credit Party or any of its Subsidiaries.

8.4 Litigation. Except for the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no actions, suits or proceedings pending or, to the knowledge of any Credit Party, threatened in writing against any Credit Party or any of its Subsidiaries (a) that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (b) that involves this Agreement or the Transactions.

8.5 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6 Governmental Approvals. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, the execution, delivery and performance of each Credit Document does not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings, consents, approvals, registrations and recordings in respect of the Liens created pursuant to the Security Documents (and to release existing Liens), and (iii) such licenses, approvals, authorizations, registrations, filings or consents the failure of which to obtain or make would not reasonably be expected to result in a Material Adverse Effect.

8.7 Investment Company Act. No Credit Party nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

8.8 True and Complete Disclosure.

(a) None of the written information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Credit Parties any of their Subsidiaries or any of their respective authorized representatives to the Administrative Agent and/or any Lender on or before the Closing Date (including all such written information and data contained in the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein, contain any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time in light of the circumstances under which such information or data was furnished (after giving effect to all supplements and updates), it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections, estimates (including financial estimates, forecasts, and other forward-looking information) or other forward-looking information and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts, and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

8.9 Financial Condition; Financial Statements.

(a) The Parent has heretofore furnished to the Lenders its audited consolidated balance sheet and statement of income, stockholders equity and cash flows as of and for the fiscal years ended January 31, 2019 and January 31, 2018. Such financial statements present fairly in all material respects the combined financial position of the Parent and its Subsidiaries at the respective dates of said information, statements and results of operations for the respective periods covered thereby. The financial statements

referred to in clause (a) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements.

(b) Since January 31, 2019, there has been no event, change or condition that has had or could reasonably be excepted to have a Material Adverse Effect.

(c) Except as set forth in the financial statements referred to in Section 8.9(a), the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no liabilities of any Credit Party of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise, which would reasonably be expected to result in a Material Adverse Effect.

8.10 Compliance with Laws; No Default. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party and each of its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

8.11 Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or is excused by the Bankruptcy Court or as a result of the filing of the Chapter 11 Cases, (a) each Credit Party and each of its Subsidiaries has filed all Tax returns required to be filed by it (including in its capacity as withholding agent) and has timely paid all Taxes payable by it that have become due, and (b) there is no current or proposed Tax assessment, deficiency or other claim against any Credit Party or any of its Subsidiaries, other than, in each of clauses (a) and (b), those being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the nonpayment of which is permitted or required under the Bankruptcy Code.

8.12 Compliance with ERISA and Foreign Plans.

(a) Except as would not reasonably be expected to have a Material Adverse Effect, no ERISA Event has occurred or is reasonably expected to occur.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

(c) Except as would not reasonably be expected to have a Material Adverse Effect:

(i) All Canadian Pension Plans are duly registered under the *Income Tax Act* (Canada), applicable pension standards legislation and any other applicable laws which require registration, and no event has occurred which could reasonably be expected to cause the loss of such registered status. Schedule 8.12 describes each Canadian Benefit Plan and lists the name and registration number of each Canadian Pension Plan. The Canadian Pension Plans and the Canadian Benefit Plans have each been administered, funded and invested in accordance with the terms of particular plan, all applicable laws including, where applicable, the *Income Tax Act* (Canada) and pension standards legislation, and the terms of all applicable collective bargaining agreements and employment contracts.

(ii) All material obligations of each Credit Party (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans, the Canadian Benefit Plans and the funding agreements therefor have been performed on a timely basis. There are no outstanding disputes concerning the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No promises of material benefit improvements under the Canadian Pension Plans or the Canadian Benefit Plans have been made.

All employee and employer payments, contributions or premiums required to be withheld, made, remitted or paid to or in respect of each Canadian Pension Plan or Canadian Benefit Plan and all other amounts that are due to the pension fund of any Canadian Pension Plan from any Credit Party have been withheld, made, remitted or paid on a timely basis in accordance with the terms of such plans, any applicable collective bargaining agreement or employment contract and all applicable laws.

(iii) Any assessments owed to the Pension Fund established under the *Pension Benefits Act* (New Brunswick) or other assessments or payments required under similar legislation in any other jurisdiction, in respect of any Canadian Pension Plan have been paid when due. There has been no improper withdrawal or application of the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No event has occurred which could reasonably be expected to give rise to a partial or full termination of any Canadian Pension Plan. No event has occurred or is reasonably expected to occur that could trigger or otherwise require immediate or accelerated funding in respect of any Canadian Benefit Plan.

8.13 Subsidiaries. Schedule 8.13 sets forth (a) a correct and complete list of the name and relationship to the Parent of each Subsidiary, (b) a true and complete listing of each class of the Borrower's authorized Equity Interests, all of which issued shares are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 8.13, and (c) the type of entity of the Parent and each Subsidiary. Except as set forth on Schedule 8.13 (or, as supplemented with the consent of the Required Lenders on or prior to the Final Hearing Date, as confirmed by any Specified Lender Advisors (which approval may be communicated via an email from any of the Specified Lender Advisors)), there are no outstanding commitments or other obligations of any Credit Party to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Credit Party.

8.14 Intellectual Property. Other than as a result of the Chapter 11 Cases and subject to any necessary orders or authorization of the Bankruptcy Court, each Credit Party and its Subsidiaries owns or is licensed to use all Intellectual Property that is material to and used in or otherwise necessary for the operation of their respective businesses as currently conducted. The operation of their respective businesses by each of the Credit Parties and its Subsidiaries does not infringe upon, misappropriate, violate or otherwise conflict with the Intellectual Property of any third party, except as would not be material to the businesses of each Credit Party and its Subsidiaries.

8.15 Environmental Laws.

(a) Except as set forth on Schedule 8.15, or as would not reasonably be expected to have a Material Adverse Effect: (i) each of the Credit Parties and its Subsidiaries and their respective operations and properties are in compliance with all applicable Environmental Laws; (ii) none of the Credit Parties or any Subsidiary has received written notice of any Environmental Claim; (iii) none of the Credit Parties or any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) no underground or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by the Credit Parties or any Subsidiary.

(b) Except as set forth on Schedule 8.15, No Credit Party or any of its Subsidiaries has treated, stored, transported, Released or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of any Credit Party, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that would reasonably be expected to have a Material Adverse Effect.

8.16 Properties. Other than as a result of the Chapter 11 Cases and subject to any necessary authorization of the Bankruptcy Court:

(a) Each of the Credit Parties and its Subsidiaries has good and valid record title to, valid leasehold interests in, or rights to use, all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title or interest would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such act has been obtained in accordance with Section 9.3(b).

(b) Set forth on Schedule 8.16(b) is a list of each real property owned by any Credit Party as of the Closing Date having a Fair Market Value in excess of $1,000,000.

(c) Set forth on Schedule 8.16(c) is a list of each real property leased by any Credit Party as of the Closing Date where Collateral with an aggregate value in excess of $1,000,000 is located.

8.17 No EEA Financial Institution. No Credit Party is an EEA Financial Institution.

8.18 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of The Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the "**European Union Regulation**"), its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) is situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

8.19 [Reserved].

8.20 OFAC; USA PATRIOT Act; FCPA.

(a) On the Funding Date and each Withdrawal Date, the use of proceeds of the Loans will not violate the PATRIOT Act, OFAC Regulations, and other Anti-Terrorism Laws.

(b) To the extent applicable, each Credit Party and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto ("**OFAC Regulations**"), (ii) the USA PATRIOT Act, (iii) the FCPA and (iv) AML Legislation, the *Corruption of Foreign Public Officials Act* (Canada) and any other similar applicable law.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**").

(d) No Credit Party (i) is currently the subject of any Sanctions or (ii) is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Loan, has been used by any Credit Party, directly, to lend, contribute, provide or has otherwise made available to fund any activity or

business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender and the Administrative Agent) of Sanctions.

8.21 Security Interest in Collateral. Upon execution and delivery thereof by the parties thereto and upon the entry by the Bankruptcy Court of the Interim Order or the Final Order, as applicable, and subject to the provisions of this Agreement and the Security Documents, the Security Documents are effective to create (to the extent described therein) in favor of the Collateral Agent, for the benefit of itself and the other Secured Parties, a legal, valid and enforceable security interest in or liens on the Collateral described therein and the proceeds thereof, except as to enforcement, as the same may be limited by Bail-In Action, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing. Upon the entry by the Bankruptcy Court of the Interim Order or Final Order, as applicable, and in accordance therewith, the security interests and liens granted pursuant to the Interim Order, the Final Order and the Security Documents shall automatically, and without further action (other than, where necessary, any Foreign Law Security Filings), constitute a perfected security interest in (to the extent intended to be created thereby and required to be perfected under the Credit Documents) all right, title and interest of each pledgor or mortgagor (as applicable) party thereto in the Collateral described therein with respect to such pledgor or mortgagor (as applicable). Notwithstanding any other provision of this Agreement, capitalized terms that are used in this Section 8.21 and not defined in this Agreement are so used as defined in the applicable Security Document.

8.22 Use of Proceeds. Subject to the terms and conditions herein, the use of cash collateral and the proceeds of the Loans made hereunder shall be used by the Borrower, solely on or after the Closing Date, in accordance with the DIP Order and the Approved Budget (subject to Permitted Variances): (i) to pay related transaction costs, fees and expenses (including attorney's fees required to be paid hereunder and to fund the Carve Out) with respect to the DIP Facility, (ii) to make the adequate protection payments (if any) in accordance with the Approved Budget and the DIP Order, (iii) to fund the operation of certain non-Debtor Subsidiaries through "on-lending" or contributions of capital; provided that the proceeds of the Loans used to fund non-Debtor Subsidiaries under this Section 8.22(iii) shall not exceed the Maximum Non-Debtor Investment Cap, and (iv) to provide working capital, and for other general corporate purposes of the Credit Parties and their Subsidiaries, and to pay administration costs of the Chapter 11 Cases and the Canadian Recognition Proceeding and claims or amounts approved by the Court. The Credit Parties shall not be permitted to use the proceeds of the Loans or any cash collateral in contravention of the provisions of the Credit Documents, the DIP Order or the applicable Debtor Relief Laws, including any restrictions or limitations on the use of proceeds contained therein; provided that, no proceeds of the Loans will be used in connection with (including without limitation, to fund or prefund) any executive retention plan without the express written consent of the Required Lenders (which consent may be communicated via an email from any Specified Lender Advisor).

8.23 Insurance. The Credit Parties are in compliance with Section 9.3.

8.24 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date and the Canadian Recognition Proceedings were commenced thereafter, in accordance with applicable law and proper notice thereof was given for (x) the motion seeking approval of the Interim Order and the application seeking approval of the Canadian Interim Orders (y) the hearing for the entry of the Interim Order and the Canadian Interim Orders and (z) the hearing for the entry of the Final Order and the Canadian Final Order. The Debtors shall give, on a timely basis as specified in the Interim Order or Final Order, as applicable, all notices required to be given to all parties specified in the Interim Order or Final Order, as applicable.

(b) After entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against each Credit Party now existing or hereafter arising of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726, 1113, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under Section 364(c)(1) of the Bankruptcy Code, subject only to the Carve Out and the priorities set forth in the Interim Order or the Final Order, as applicable. After entry of the Canadian Supplemental Order, and pursuant to and to the extent permitted in the Canadian Supplemental Order and the Canadian Final Order, the Obligations of the Debtors in Canada hereunder will be secured by the CCAA DIP Lender's Charge having priority over all claims or any nature or kind against the Debtors in Canada, subject only to the CCAA Administration Charge.

(c) The Interim Order (with respect to the period prior to the entry of the Final Order) or the Final Order (with respect to the period on and after the entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors). The Canadian Supplemental Order (with respect to the period prior to the entry of the Canadian Final Order) or the Canadian Final Order (with respect to the period on and after the entry of the Canadian Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from either of the Specified Lender Advisors).

(d) Notwithstanding the provisions of Section 362 of the Bankruptcy Code and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of such Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Bankruptcy Court. Subject to the Canadian Supplemental Order or the Canadian Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of the Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Canadian Bankruptcy Court.

Section 9. Affirmative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

9.1 Information Covenants. The Borrower will furnish to the Administrative Agent and the Specified Lender Advisors:

(a) [Reserved].

(b) Quarterly Financial Statements; Monthly Financial Statements.

(i) Quarterly Financial Statements. Commencing with the fiscal quarter ending April

30, 2020, as soon as available and in any event within five days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Parent (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days (or with respect to the fiscal quarter ending April 30, 2020, 60 days) after the end of each such quarterly accounting period), the consolidated balance sheets of the Parent and the Subsidiaries as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for the elapsed portion of the fiscal year ended with the last day of the applicable quarterly period, and setting forth comparative consolidated and/or combined figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the related period in the prior fiscal year, all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with GAAP (except as noted therein), subject to changes resulting from normal year-end adjustments and the absence of footnotes.

(ii) Monthly Financial Statements. Commencing with the month ending May 31, 2020, as soon as available but in any event not later than the thirtieth (30th) day (or with respect to the month ending May 31, 2020, forty-fifth (45th) day) after the end of month, the unaudited financial summary of the financial performance, the unaudited consolidated balance sheet and the unaudited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows of the Parent and the Subsidiaries as of the end of and for such month and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year.

(c) Officer's Certificates. Concurrently with the delivery of the financial statements provided for in Sections 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth a specification of any change in the identity of the Subsidiaries as at the end of such fiscal period, as the case may be, from the Subsidiaries provided to the Lenders on the Closing Date or the most recent fiscal period, as the case may be.

(d) Notice of Material Events. Promptly (and in any event, unless otherwise set forth herein, within four Business Days thereof) after an Authorized Officer of any Credit Party or any of its Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental proceeding pending against any Credit Party or any of its Subsidiaries that would reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect and (iii) to the extent reasonably practicable, (i) at least three Business Days (provided that if delivery of such documents, motions, orders, or applications at least three Business Days in advance is not reasonably practicable prior to filing, such period for delivery may be shortened upon the consent of the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor)) prior to the date when the Borrower intends to file the RSA, any documents implementing and achieving the Transactions (as defined in the RSA) and the transactions contemplated by the Credit Documents, as applicable, including any substantive "first day" or "second day" motions, the Chapter 11 Plan and any supplement thereto, the Chapter 11 Plan Disclosure Statement, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan Disclosure Statement and the related solicitation

materials, any proposed Interim Order and Final Order, any proposed Canadian Interim Orders, Canadian Final Order or Canadian Confirmation Order, in each case, with the Bankruptcy Court or the Canadian Bankruptcy Court, as applicable, and (ii) at least one (1) calendar day (or such shorter review period as necessary or appropriate) prior to the date when the Borrower intends to file any other material pleading with the Bankruptcy Court or the Canadian Bankruptcy Court (but excluding retention applications, fee applications, and any declarations in support thereof or related thereto);

(e) Notice of Environmental Matters. Promptly (and in any event within four Business Days thereof) after an Authorized Officer of any Credit Party or any Subsidiary thereof obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not reasonably be expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate; and

(ii) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, Release or threatened Release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation or removal, remedial or other corrective action in response thereto. The term "**Real Estate**" shall mean land, buildings, facilities and improvements owned or leased by any Credit Party or any of its Subsidiaries.

(f) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by any Credit Party (or any Parent Entity) or any of its Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices, and reports that the Credit Parties or any of its Subsidiaries shall send to the holders of any publicly issued debt of the Parent and/or any of its Subsidiaries, in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent, the Specified Lender Advisors, the Crossholder Lender Advisors or any Lender may reasonably request; provided that none of the Parent nor any of its Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective contractors) is prohibited by law, or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Credit Parties and their Subsidiaries by furnishing the applicable financial statements of the Parent or any direct or indirect parent of the Parent, as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, to the extent such information relates to a parent of Parent, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Parent and its Subsidiaries on a standalone basis, on the other hand.

Documents required to be delivered pursuant to clauses (a) and (b) of this Section 9.1 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the earliest date on which (i) the Borrower

posts such documents, or provides a link thereto on the Parent's or a Parent Entity's website on the Internet; (ii) such documents are posted on behalf of the Credit Parties on IntraLinks/IntraAgency or another website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent), or (iii) such financial statements and/or other documents are posted on the SEC's website on the internet at www.sec.gov; provided that (A) the Borrower shall, at the request of the Administrative Agent, continue to deliver copies (which delivery may be by electronic transmission) of such documents to the Administrative Agent and (B) the Borrower shall in any event notify (which notification may be by facsimile or electronic transmission) the Administrative Agent of the posting of any such documents on any website described in this paragraph. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents and maintaining its copies of such documents. The Required Lenders may waive any delivery requirement set forth in this Section 9.1 (which waiver may be communicated via email by any Specified Lender Advisor).

Each Credit Party hereby acknowledges and agrees that, unless the Borrower notifies the Administrative Agent in advance, all financial statements and certificates furnished pursuant to Sections 9.1(a), (b) and (d) above are hereby deemed to be suitable for distribution, and to be made available, to all Lenders.

9.2 Books, Records, and Inspections.

(a) The Parent will, and will cause each Subsidiary to, permit officers and designated representatives of the Administrative Agent, the Specified Lender Advisors or the Required Lenders to visit and inspect any of the properties or assets of the Parent and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Parent and any such Subsidiary and discuss the affairs, finances and accounts of the Parent and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, at any time during normal business hours and upon reasonable advance notice without limitation on frequency and to such extent as the Administrative Agent, the Specified Lender Advisors or the Required Lenders may desire. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Credit Parties' independent public accountants.

(b) The Parent will, and will cause each Subsidiary to maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Parent and any such Subsidiary, as the case may be.

9.3 Maintenance of Insurance. (a) The Parent will, and will cause each of its Subsidiary to, at all times maintain in full force and effect, with insurance companies that are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis and against at least such risks (and with such risk retentions) as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis; and the Borrower will furnish to the Administrative Agent and the Specified Lender Advisors, promptly following written request from the Administrative Agent (acting at the Direction of the Required Lenders), information presented in reasonable detail as to the insurance so carried, (b) if (x) any improved portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in

effect or successor act thereto) and (y) the Collateral Agent shall have delivered a notice to the Borrower stating that such Mortgaged Property is located in such special flood hazard area with respect to which such flood insurance has been made available, then the applicable Credit Party shall (i) obtain flood insurance in such total amount and in such form as the Administrative Agent (acting at the Direction of the Required Lenders) or the Required Lenders may from time to time reasonably require, and otherwise comply with the Flood Insurance Laws, (ii) deliver to the Administrative Agent and the Specified Lender Advisors evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), including, without limitation, a copy of the flood insurance policy and a declaration page relating to the insurance policies required by this Section 9.3 which shall (1) identify the addresses of each property located in a special flood hazard area, (2) indicate the applicable flood zone designation, the flood insurance coverage and the deductible relating thereto, (3) provide that the insurer will give the Administrative Agent forty-five days written notice of cancellation or non-renewal and shall include evidence of annual renewals of such insurance and (4) be otherwise in form and substance satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) and (c) such insurance will (i) in the case of each casualty insurance policy, contain a lender loss payable endorsement that names the Collateral Agent, on behalf of the Secured Parties as the lender loss payee thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured) and (ii) in the case of each casualty insurance policy, contain an additional insured endorsement that names the Collateral Agent, on behalf of the Secured Parties as an additional insured thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured).

9.4 Payment of Taxes. The Parent or the Borrower will pay and discharge, and will cause each of its Subsidiaries to pay and discharge, all material Taxes imposed upon it (including in its capacity as a withholding agent) or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, would reasonably be expected to become a material Lien upon any properties of the Credit Parties or any of the Subsidiaries; provided that no Credit Party nor any of its Subsidiaries shall be required to pay any such Tax that is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the failure to pay (i) is permitted or required under the Bankruptcy Code or (ii) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

9.5 Preservation of Existence; Consolidated Corporate Franchises. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each Credit Party to, take all actions necessary (a) to preserve and keep in full force and effect its existence, organizational rights and authority and (b) to maintain its rights, privileges (including its good standing (if applicable)), permits, Intellectual Property rights, licenses and franchises necessary in the normal conduct of its business, in each case (other than with respect to the presentation of the existence, organizational rights and authority of the Credit Parties), except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided, however, that each Credit Party and its Subsidiaries may consummate any transaction permitted under Permitted Investments and Sections 10.2, 10.3, 10.4, or 10.5.

9.6 Compliance with Statutes, Regulations, Etc. The Parent will, and will cause each of its Subsidiary to, (a) comply with all applicable laws, rules, regulations, and orders applicable to it or its property, including, without limitation, applicable laws administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury and the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations promulgated thereunder, and all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with

and maintain, any and all licenses, approvals, notifications, registrations or permits required by Environmental Laws, and (c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives which are being timely contested in good faith by proper proceedings, except (i) in each case of (a), (b), and (c) of this Section 9.6, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect or (ii) compliance is excused by, or otherwise prohibited by, the provisions of the Bankruptcy Code or as a result of the Chapter 11 Cases.

9.7 Employee Benefit Matters. (a) The Borrower will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any of its Subsidiaries may request with respect to any Multiemployer Plan to which a Credit Party or any of its Subsidiaries is obligated to contribute; provided that if any Credit Party or any of its Subsidiaries have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent or the Required Lenders (which request may be communicated via email by any Specified Lender Advisor), such Credit Party shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) promptly after receipt thereof.

9.8 Maintenance of Properties. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear, casualty, and condemnation excepted, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

9.9 Transactions with Affiliates. The Parent and the Borrower will conduct, and cause each of the Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Credit Parties) involving aggregate payments or consideration in excess of $1,000,000 for any individual transaction or series of related transactions on terms that are at least substantially as favorable to the Credit Party or such Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, as determined by the board of directors of the Borrower or such Subsidiary in good faith; provided that the foregoing restrictions shall not apply to (a) the transactions set forth in that certain cooperation agreement among the Debtors, certain of the Pre-Petition First Lien Lenders and the Pre-Petition Second Lien Lenders, the Sponsor (as defined herein) and each of the four (4) Luxembourg parent entities of Debtor Pointwell Limited, effective as of June 12, 2020, (b) transactions permitted by Section 10.5, (c) consummation of the Transactions and the payment of the Transaction Expenses, (d) the issuance of Capital Stock or Stock Equivalents of the Parent (or any direct or indirect parent thereof) or any of its Subsidiaries not otherwise prohibited by the Credit Documents, (e) [reserved], (f) employment and severance arrangements between the Credit Parties and the Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business and in effect on the Closing Date, (g) payments by the Parent (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among the Parent (and any such parent) and the Subsidiaries, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Parent (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Parent and the Subsidiaries, solely as to any costs and expenses in an aggregate amount not to exceed $500,000, (i) [reserved], (j) transactions pursuant to any agreement or arrangement as in effect as of the Closing Date, (k) [reserved], (l) [reserved], (m) Affiliate repurchases of the Loans or Commitments to the extent permitted hereunder and the holding of such Loans or Commitments and the payments and other transactions

contemplated herein in respect thereof and (n) any customary transactions with a Receivables Subsidiary effected as part of the Receivables Facility.

9.10 End of Fiscal Years. The Parent and each of its Subsidiaries will maintain its fiscal year as in effect on the Closing Date unless the Required Lenders consent to any change to such fiscal year (which consent may be communicated via an email from any of the Specified Lender Advisors).

9.11 Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Security Documents, the Parent will take action necessary to cause each direct or indirect Subsidiary (other than any Excluded Subsidiary or any Immaterial Subsidiary (unless requested by the Required Lenders)) formed or otherwise purchased or acquired after the Closing Date and each other Subsidiary that ceases to constitute an Excluded Subsidiary, within 30 days (or 45 days with respect to any Subsidiary not organized in the United States, Canada or Ireland) from the date of such formation, acquisition, cessation or request, as applicable (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to (a) be included in the grant of liens and claims in the DIP Order or take action necessary to cause such Person and/or (b) execute a supplement to each of the Guarantee, the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and execute any of the Irish Security Documents, as applicable, and the U.S. Security Agreement or a Foreign Security Agreement, as applicable, in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent requested by the Collateral Agent (acting at the Direction of the Required Lenders), enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to the Collateral Agent (acting at the Direction of the Required Lenders) and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date and pursuant to Section 9.14(d) in the case of such Credit Parties.

9.12 Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents, the Parent will cause (i) all certificates representing Capital Stock and Stock Equivalents of any Subsidiary held directly by any Credit Party representing Collateral, (ii) [reserved] and (iii) any promissory notes evidencing Indebtedness in excess of $1,000,000 of the Credit Parties or any Subsidiary (other than any Excluded Subsidiary) that is owing to the any Credit Party, in each case, to be delivered to the Collateral Agent as security for the Obligations accompanied by undated instruments of transfer executed in blank pursuant to the terms of the Security Documents.

9.13 Use of Proceeds. The Parent and the Borrower will, and will cause each Subsidiary to use the proceeds of the Loans only for the purposes set forth in Section 8.22.

9.14 Further Assurances.

(a) Subject to the terms of Sections 9.11 and 9.12, this Section 9.14 and the Security Documents, the Parent and the Borrower will, and will cause each Credit Party to, execute any and all further documents, financing statements, agreements, and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust, and other documents) that may be required under any applicable law, or that the Collateral Agent (acting at the Direction of the Required Lenders) or the Required Lenders may reasonably request, in order to grant, preserve, protect, and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrower; provided that, notwithstanding anything to the contrary contained herein or in any other Credit Document, the Required Lenders may request the Parent to take action necessary to cause each Immaterial Subsidiary in existence

on the Closing Date, within 45 days from the date of such request (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to take all actions contemplated under Section 9.12 to become a Guarantor and to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date.

(b) Subject to any applicable limitations set forth in the Security Documents, if any assets (including any real estate or improvements thereto or any interest therein) are acquired by any Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute a fee interest in real property, the Borrower will notify the Collateral Agent, and, if requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), the Credit Parties will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or reasonably requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), including the granting of a Mortgage on such owned real estate, as soon as commercially reasonable but in no event later than 30 days thereafter (unless extended by the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) in their sole discretion), to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), shall be delivered within such time period as requested by the Required Lenders and accompanied by, in each case to the extent requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor) (w) to the extent available in the applicable jurisdiction, a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a title insurance company or similar insurer recognized in such jurisdiction, in such amounts as reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) not to exceed the Fair Market Value of the applicable Mortgaged Property, insuring the Lien of each Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Required Lenders and otherwise in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor) (the "**Title Policy**"), together with, such endorsements, coinsurance and reinsurance as the Required Lenders may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided that in no event shall the Administrative Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, (x) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor), (y) with respect to property located in the United States, a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if any improvements on such Mortgaged Property are located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) evidence the insurance required by Section 9.3 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction may be communicated by email from any of the Specified Lender Advisor), and (z) an ALTA survey in a form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) or such existing survey together with a no-change affidavit sufficient for the title company to issue the survey related endorsements and to remove all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (w) above.

(d) Post-Closing Covenant. The Parent agrees that it will, or will cause its Subsidiaries to complete each of the actions described on Schedule 9.14, in each case, as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14 with respect to such action or such later date as the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) may agree in their sole discretion.

9.15 Maintenance of Ratings. Prior to the early to occur of (i) thirty days after the Petition Date and (ii) the entry of the Final Order, the Borrower will use commercially reasonable efforts to obtain and maintain a private corporate family and/or corporate credit rating, as applicable, and ratings in respect of the credit facilities provided pursuant to this Agreement (but not maintain any specific rating), in each case, from each of S&P and Moody's or, with the consent of the Required Lenders in the event that Moody's and/or S&P are not willing to so rate the Loans, such other rating agency, as applicable, as is acceptable to the Required Lenders (which acceptance may be communicated via email from any of the Specified Lender Advisors).

9.16 Lines of Business. The Parent, the Borrower and their Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Credit Parties and their Subsidiaries, taken as a whole, on the Closing Date and other business activities which are reasonable extensions thereof.

9.17 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of the European Union Regulation, its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) shall be situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

9.18 Approved Budget.

(a) The Approved Budget shall set forth, on a weekly basis, among other things, Budgeted Cash Receipts, Budgeted Operating Disbursement Amounts, Budgeted Liquidity, Budgeted Restructuring Related Amounts and Budgeted Borrower Professional Fees for the 13-week period commencing with the first full week after the Closing Date and shall be approved by and in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors); provided that it is acknowledged and agreed by the parties hereto that the Initial Approved Budget is approved by and satisfactory to the Required Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of this Section, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors. The Approved Budget shall be updated, modified or supplemented by the Borrower from time to time in writing transmitted to the Administrative Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required Lenders (with a copy of such written consent or request concurrently delivered to the Administrative Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week after the Closing Date, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period

covered by the prior approved Approved Budget has terminated (and at all times thereafter such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Each Approved Budget shall be accompanied by such supporting documentation as reasonably requested by the Specified Lender Advisors and prepared in good faith based upon assumptions believed by the Borrower to be reasonable.

(b) For each Variance Testing Period, the Borrower shall not permit: (x) the Actual Cash Receipts to be less than Budgeted Cash Receipts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance for such Variance Testing Period and (y) Actual Operating Disbursement Amounts to exceed the Budgeted Operating Disbursement Amounts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance.

(c) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) on or before 5:00 p.m. (New York City time) on Thursday of every other week (commencing on July 16, 2020), a certificate which shall include such detail as is reasonably satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), signed by an Authorized Officer of the Borrower (i) certifying that the Credit Parties are in compliance with the covenants contained in Section 9.18(a) and (b), (ii) certifying that no Default or Event of Default has occurred or, if such a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (iii) identifying the cumulative amount of any Investments made pursuant to clause (vi) of the definition of "Permitted Investments" as of the date of such report and (iv) certifying to the amount of Actual Liquidity as of the Friday of the prior calendar week, and attaching the Approved Budget Variance Report which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period, and shall be in a form and substance satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors).

(d) The Administrative Agent and the Lenders (i) may assume that the Credit Parties will comply with the Approved Budget (subject to Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Credit Parties remain obligated to pay any and all Obligations in accordance with the terms of the Credit Documents regardless of whether such amounts exceed such estimates. Nothing in any Approved Budget shall constitute an amendment or other modification of any Credit Document or other lending limits set forth therein.

9.19 Cash Flow Forecast.

(a) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors on or before 5:00 p.m. (New York City time) on Thursday every fourth week (commencing on July 16, 2020) supplemental Cash Flow Forecasts, which shall set forth, on a weekly basis, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period. The projections delivered pursuant to this Section 9.19 shall not constitute the "Approved Budget" for any purpose hereunder.

9.20 Monthly Calls and Status Update Calls

(a) At one point during the month upon the request of the Required Lenders, with reasonable

notice and an agenda provided to management prior thereto, the Borrower shall conduct monthly telephone conferences which at the election of the Required Lenders can include, the Specified Lender Advisors, the Crossholder Lender Advisors and all or a portion of the Lenders (and can be split into (i) a Public Siders and non-Public Siders portion and (ii) a solely non-Public Sider Lenders portion) and permit questions from such Lenders and answers; provided that (I) questions from the Lenders shall be provided to the Borrower in writing no later than two (2) Business Days in advance and (II) for the avoidance of doubt, the Borrower shall not be obligated to disclose any material non-public information during the Public-Siders and non-Public-Siders portion of such telephone conferences;

(b) At the request of the Specified Lender Advisors (in consultation with the Crossholder Lender Advisors), not more than twice a month from and after the Petition Date through the Maturity Date, the Borrower shall hold a meeting (at a mutually agreeable location and time or telephonically with reasonable notice to management prior thereto) with management of the Borrower, the Specified Lender Advisors and the Crossholder Lender Advisors, which meeting, at the discretion of the Specified Lender Advisors (and the Crossholder Lender Advisors, solely with respect to the Ad Hoc Group of Crossholder Lenders), may include private side Lenders, public side Lenders and/or non-Public Sider Lenders; provided that the Specified Lender Advisors shall (i) communicate the participants to the Borrower in advance of such call or meeting and (ii) provide an agenda in advance of such call or meeting (which exercise of discretion may be communicated via an email from any of the Specified Lender Advisors) regarding the financing results, operations, compliance of the Credit Parties and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding; provided, further, that any such meeting that occurs during the same week as the telephone conference outlined in Section 9.21(a) hereof may be combined with such telephone conference; and

(c) promptly upon any reasonable request of any Specified Lender Advisor hold a telephonic meeting with such Specified Lender Advisor regarding the financing results, operations, other business developments and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding.

The Required Lenders may waive any requirements set forth in this Section 9.20 (which waiver may be communicated via e-mail by any Specified Lender Advisor).

9.21 Required Milestones. The Parent shall, or shall cause the following to occur, by the times and dates set forth below (as any such time and date may be extended, or any of such milestone set forth below may be modified, with the consent of the Required Lenders (which consent, and any consent of the Required Lenders described below may be communicated via an email from any of the Specified Lender Advisors)):

(a) By no later than one Business Day following the Petition Date, the Borrower shall file a Prepack Scheduling Motion seeking entry of the Prepack Scheduling Order, in form and substance reasonably acceptable to the Required Lenders.

(b) By no later than three Business Days following the Petition Date, the Bankruptcy Court shall enter (i) the Interim Order, and (ii) the Prepack Scheduling Order.

(c) By no later than four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada Ltd. shall have commenced the Canadian Recognition Proceeding.

(d) By no later than twenty-five calendar days following the Petition Date, the Bankruptcy Court shall enter the Final Order authorizing the DIP Facility, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(e) By no later than four Business Days following the entry of the Final Order, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Final Order.

(f) By no later than sixty calendar days following the Petition Date, the Bankruptcy Court shall enter an order confirming the Chapter 11 Plan, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(g) By no later than four Business Days following the entry of the order confirming the Chapter 11 Plan, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Confirmation Order.

(h) By no later than eighty calendar days following the Petition Date, the effective date of the Chapter 11 Plan shall have occurred.

9.22 Specified Lender Advisors.

(a) The Administrative Agent, on behalf of itself and the Lenders, the Collateral Agent, on behalf of its and the Secured Parties, the Lenders, each of the Specified Lender Advisors, on behalf of itself and the Lenders represented thereby, and the Crossholder Lender Advisors, on behalf of itself and the Lenders represented thereby, shall each be entitled to retain or continue to retain (either directly or through counsel) any advisor any Agent and the Ad Hoc Group of Lenders may deem necessary to provide advice, analysis and reporting for the benefit of the Agents or the Lenders. The Credit Parties shall pay all fees and expenses of such advisors in accordance with this Agreement and any other Credit Document, any applicable fee or engagement letters, and all such fees and expenses shall constitute Obligations and be secured by the Collateral. The Credit Parties and their advisors shall grant access to, and cooperate in all respects with, the Agents, the Lenders, the Specified Lender Advisors, the Agent Advisors and the Crossholder Lender Advisors and any other representatives of the foregoing and provide all information that such parties may request in a timely manner.

(b) The Borrower shall continue to retain the Company Advisors as company advisors consistent with the terms of their respective engagement agreements as in effect on the Closing Date or as otherwise agreed by the Required Lenders (which agreement may be communicated via an email from any of the Specified Lender Advisors).

9.23 Additional Bankruptcy Matters. The Borrower shall promptly provide the Administrative Agent, the Lenders and the Specified Lender Advisors with updates of any material developments in connection with the Credit Parties' reorganization efforts under the Chapter 11 Cases or the Canadian Recognition Proceeding, whether in connection with the sale of all or substantially all of the Parent's and its Subsidiaries' consolidated assets, the marketing of any Credit Parties' assets, the formulation of bidding procedures, auction plan, and documents related thereto, or otherwise

9.24 Debtor-in-Possession Obligations. The Borrower shall comply in a timely manner with its obligations and responsibilities as debtor-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the DIP Order, and any other order of the Bankruptcy Court or the Canadian Bankruptcy Court.

9.25 Deposit Accounts.

(a) Set forth on Schedule 9.25 is a list of each Bank Account of each Credit Party or its Subsidiaries as of the Closing Date. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree), the Borrower (or applicable Credit Party) shall enter

into a Control Agreement with each account bank, with respect to each Deposit Account (other than an Excluded Account) in which funds of any of the Credit Parties are deposited and a Control Agreement for any Securities Account (other than an Excluded Account) where securities are or may be maintained (including those existing as of the Closing Date). In addition, the Borrower (or applicable Credit Party) shall enter into a Control Agreement with respect to any such Deposit Account or Securities Account other than an Excluded Account which is established after the Closing Date, promptly and in any event within 30 days upon such establishment (or such longer period as the Required Lenders may agree in their discretion).

(b) The Borrower shall not permit more than $250,000 in the aggregate deposited in any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

9.26 Foreign Pledge. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree (which agreement may be communicated via an email from any of the Specified Lender Advisors)), the Borrower shall execute a supplement to each of the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in 100% of the equity of each Subsidiary directly owned by any Credit Party; unless the Borrower delivers a tax analysis by independent certified public accountants of recognized national standing (which may be Ernst & Young LLP) concluding that a security interest in such equity would reasonably be expected to result in a material tax consequence to the Credit Parties as determined by the Required Lenders (in consultation with the Borrower); provided that no pledge or supplement shall be required to the extent the Required Lenders determine that the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby.

Section 10. Negative Covenants

The Parent and the Borrower hereby covenants and agrees with the Lenders that on the Closing Date and thereafter, jointly and severally with all other Credit Parties, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees, and all other Obligations incurred hereunder, are paid in full that, unless consented to by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors):

10.1 Limitation on Indebtedness. The Parent and the Borrower will not, and will not permit any Subsidiary to create, incur, issue, assume, guarantee or otherwise become liable, contingently or otherwise (collectively, "**incur**" and collectively, an "**incurrence**"), with respect to any Indebtedness, and the no Credit Party will issue any shares of Disqualified Stock and will not permit any Subsidiary to issue any shares of Disqualified Stock.

The foregoing limitations will not apply to:

(a) Indebtedness arising under the Credit Documents;

(b) (x) Indebtedness under (i) the Pre-Petition First Lien Credit Agreement in an aggregate principal amount not to exceed $1,369,925,000, (ii) the Pre-Petition Second Lien Credit Agreement, in an aggregate principal amount not to exceed $670,000,000 and (iii) under the Receivables Facility, in an aggregate principal amount not to exceed $90,000,000.

(c) (i) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and (ii) intercompany Indebtedness outstanding on the Closing Date listed on Schedule 10.1;

(d) [reserved];

(e) Indebtedness incurred by any Credit Party, in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement or indemnification type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance;

(f) Capitalized Lease Obligations (i) outstanding on the Closing Date and (ii) incurred after the Closing Date in an aggregate amount not to exceed $3,000,000;

(g) Indebtedness of any Credit Party in respect of letters of credit with an aggregate face amount not to exceed $2,000,000;

(h) Indebtedness of any Credit Party owing to another Credit Party or of any Subsidiary that is not a Credit Party to another Subsidiary that is not a Credit Party;

(i) Indebtedness of any Credit Party to the extent expressly permitted in the Approved Budget;

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) Indebtedness in connection with cash management and related banking services in the ordinary course;

(n) guarantees of leases of any Credit Party in the ordinary course of business and in effect on the Closing Date;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(p) other Indebtedness in an aggregate amount not to exceed $1,000,000; and

(q) (1) any guarantee by a Credit Party of Indebtedness or other obligations of any Subsidiary that is a Credit Party or (2) by any Subsidiary that is not a Credit Party of Indebtedness of any other Subsidiary that is not a Credit Party; provided that any guarantee of Indebtedness permitted under this Section 10.1(q) is subordinated in right of payment to the Obligations; provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

10.2 Limitation on Liens. The Parent and the Borrower will not, and will not permit any of the Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any Credit Party or any Subsidiary, whether now owned or hereafter acquired (each, a "**Subject Lien**"), except if such Subject Lien is a Permitted Lien.

10.3 Limitation on Fundamental Changes. Except in connection with the Chapter 11 Plan, the Credit Parties will not, and will not permit any of the Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or

dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except that:

(a) The Credit Parties and any Subsidiary thereof may consummate transactions contemplated by the RSA;

(b) the Subsidiaries set forth on Schedule 10.3 may liquidate in the ordinary course; and

(c) so long as no Event of Default has occurred and is continuing or would result therefrom, (i) any Subsidiary of the Parent may be merged, amalgamated or consolidated with or into the Borrower in a transaction in which the Borrower is the surviving corporation and (ii) any Credit Party (other than the Parent or the Borrower) or any other Subsidiary may be merged into any other Credit Party in a transaction in which the surviving entity is a Credit Party.

10.4 Limitation on Sale of Assets. The Parent and the Borrower will not, and will not permit any of their Subsidiary to, consummate an Asset Sale, except that:

(a) any sale, transfer or disposition of (i) obsolete, worn out or surplus property or property (including leasehold property interests and Intellectual Property) that is no longer economically practical in its business or commercially desirable to maintain or no longer used or useful equipment (including any servers) in the ordinary course of business or (ii) Inventory in the ordinary course of business; provided that the Fair Market Value of all such sales, transfers and dispositions permitted by this clause (a)(i) from and after the Closing Date shall not exceed $100,000 in the aggregate at any one time outstanding;

(b) any disposition of property or assets or issuance of securities by (i) a Credit Party to a Credit Party and (ii) a Subsidiary that is not a Credit Party to a Credit Party or other Subsidiary of the Parent;

(c) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Credit Parties or any of its Subsidiaries;

(d) sales of accounts receivable, or participations therein, and related assets in connection with the Receivables Facility in accordance with the Approved Budget;

(e) other sales, transfers or dispositions pursuant to an order of the Bankruptcy Court which sale, transfer or disposition are consistent with the RSA and the Approved Budget;

(f) [reserved];

(g) [reserved];

(h) leases, assignments, subleases, licenses, or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Parent and the Subsidiaries, taken as a whole in an aggregate amount not to exceed $100,000 at any one time outstanding; and

(i) other Asset Sales in an aggregate amount not to exceed $250,000.

provided that for any Asset Sales permitted under Section 10.4(a) or (i), such Credit Party or such Subsidiary must receive consideration at the time of such Asset Sale at least equal to the Fair Market Value (determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed

of; and 100% of the consideration therefor received by such Credit Party or such Subsidiary, as the case may be, is in the form of cash or Cash Equivalents;

For the avoidance of doubt, no Credit Party will, nor will it permit any Subsidiary to, enter into any Sale Leaseback.

10.5 Limitation on Restricted Payments. The Parent and the Borrower will not, and will not permit any Subsidiary to:

(a) declare or pay any dividend or make any payment or distribution on account of any Credit Party's or any of its Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

(i) Restricted Payments to effectuate the transactions contemplated by the RSA, or

(ii) dividends or distributions by a Subsidiary so long as, a Credit Party is the recipient of such dividend or distribution or such dividend or distribution by a Subsidiary that is not a Credit Party, so long as a Subsidiary that is not a Credit Party or a Credit Party is a recipient.

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Parent or any direct or indirect parent company of the Parent, including in connection with any merger or consolidation;

(c) make any payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, the principal or interest of any Indebtedness incurred prior to the Petition Date (all such Indebtedness, including all loans under the Pre-Petition Credit Agreements and the Receivables Facility, the "**Pre-Petition Indebtedness**"), other than payment to certain creditors set forth in the Approved Budget and pursuant to an order of the Bankruptcy Court in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors); provided that notwithstanding the foregoing, the Credit Parties may make payments under the Receivables Facility in an amount not to exceed the cash collected in respect of receivables invested in the Receivables Subsidiary. Furthermore, no Credit Party will, nor will it permit any of its Subsidiaries, to amend the documents evidence any Pre-Petition Indebtedness other than as set forth in the RSA or the Chapter 11 Plan.

(d) of any Credit Party or any of its Subsidiary, repurchase or other acquisition of Pre-Petition Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(e) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (e) above (other than any exception thereto) being collectively referred to as "**Restricted Payments**").

10.6 Burdensome Agreements. The Parent and the Borrower will not, nor permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of such Credit Party or any of its Subsidiaries to:

(a) (i) pay dividends or make any other distributions to the Parent or any Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits or (ii) pay

any Indebtedness owed to the Parent or any Subsidiary;

(b) make loans or advances to the Parent or any Subsidiary; or

(c) sell, lease or transfer any of its properties or assets to the Parent or any Subsidiary; or

(d) create, incur, assume or suffer to exist any Lien on property of such Person for the benefit of the Lenders with respect to the Obligations under the Credit Documents, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions pursuant to this Agreement or in effect on the Closing Date and listed on Schedule 10.6;

(ii) the Pre-Petition Credit Documents;

(iii) purchase money obligations for property acquired in the ordinary course of business consistent with past practice and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (c) or clause (d) above on the property so acquired to the extent in existence on the Closing Date;

(iv) Requirement of Law or any applicable rule, regulation or order;

(v) [reserved];

(vi) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Parent pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary and restrictions on transfer of assets subject to Permitted Liens;

(vii) (x) secured Indebtedness otherwise permitted to be incurred pursuant to Sections 10.1 and 10.2 that limit the right of the debtor to dispose of the assets securing such Indebtedness and (y) restrictions on transfers of assets subject to Permitted Liens (but, with respect to any such Permitted Lien, only to the extent that such transfer restrictions apply solely to the assets that are the subject of such Permitted Lien);

(viii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and in existence on the Closing Date;

(ix) other Indebtedness, Disqualified Stock or preferred stock of Subsidiaries permitted to be incurred subsequent to the Closing Date pursuant to the provisions of Section 10.1;

(x) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint venture and the Equity Interests issued thereby and in effect on the Closing Date;

(xi) customary provisions contained in leases, sub-leases, licenses, sub-licenses or similar agreements, in each case, entered into in the ordinary course of business and in effect on the Closing Date; and

(xii) restrictions created in connection with the Receivables Facility as it existence on the Closing Date; provided that, any further amendments to the Receivables Facility must be

approved by the Required Lenders (such approval not to be unreasonably withheld or delayed) (which approval may be communicated by email by any Specified Lender Advisor).

10.7 [Reserved].

10.8 [Reserved].

10.9 [Reserved].

10.10 Orders. Notwithstanding anything to the contrary herein, no Credit Party nor any Subsidiary shall use any portion or proceeds of the Loans or the Collateral, or disbursements set forth in the Approved Budget, for payments or for purposes that would violate the terms of the DIP Order.

10.11 [Reserved]

10.12 Insolvency Proceeding Claims. No Credit Party nor any Subsidiary shall incur, create, assume, suffer to exist or permit any other super priority administrative claim which is pari passu with or senior to the claim of any Agent, the Escrow Agent or the Lenders against the Debtors, except as set forth in the DIP Order and the Canadian DIP Recognition Order.

10.13 Bankruptcy Actions. No Credit Party nor any of its Subsidiaries shall seek, consent to, or permit to exist, without the prior written consent of the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) (which consent shall constitute authorization under this Agreement), any order granting authority to take any action that is prohibited by the terms of this Agreement, the DIP Order or the other Credit Documents or refrain from taking any action that is required to be taken by the terms of the DIP Order or any of the other Credit Documents.

10.14 Minimum Actual Liquidity. Commencing after the initial Withdrawal from the Loan Proceeds Account on the Funding Date, the Borrower shall not permit, as of the Friday of each calendar week following the Closing Date, Actual Liquidity to be less than $10,000,000 (subject to Permitted Variances).

10.15 Canadian Pension Plans. No Credit Party in existence on the Closing Date, nor any Subsidiary created after the Closing Date (as permitted hereunder), shall, without the prior written consent of the Required Lenders (which consent may be communicated by any Specified Lender Advisor), commence to participate in a Canadian Defined Benefit Plan.

Section 11. Events of Default

11.1 Events of Default. Notwithstanding the provisions of Section 362 of the Bankruptcy Code to the extent provided in the DIP Order, without notice, application or motion, hearing before, or order of the Bankruptcy Court or the Canadian Bankruptcy Court or any notice to any Credit Party, upon the occurrence of any of the following specified events (each, an "**Event of Default**"):

(a) Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default in the payment when due (or within one day of such due date) of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

(b) Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which

made or deemed made; or

(c) Perfected Security Interest. Any Lien securing any Obligations shall cease to be a perfected, first priority Lien (subject to the Carve Out and other Liens specified in the DIP Order and the CCAA Administration Charge) with respect to any material portion of the Collateral; or

(d) ERISA and Other Employee Benefit Matters. Except to the extent excused by the Bankruptcy Court or as a result of the Chapter 11 Cases, (a) an ERISA Event or a Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States District Court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e), that, when taken together with all other such events or conditions, if any, would reasonably be expected to result in a liability to any Credit Party in excess of $500,000; or

(e) Covenants. Any Credit Party shall (i) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(d)(i), Section 9.5 (solely with respect to the Borrower), Section 9.13, 9.14(d), 9.18, 9.19, 9.20, 9.21, 9.23, 9.24, 9.25, 9.26 or Section 10 or (ii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in clause (i) or otherwise set forth in this Section 11.1) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after delivery of written notice by the Administrative Agent or the Required Lenders; or

(f) [Reserved]; or

(g) [Reserved]; or

(h) Judgments. Solely with respect to pre-petition actions, one or more judgments or decrees shall be entered against any Credit Party or any of the Subsidiaries involving a liability in excess of $1,000,000 in the aggregate for all such judgments and decrees for the Parent and the Subsidiaries (to the extent not covered by insurance or indemnities as to which the applicable creditworthy insurance company has not denied coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 30 days after the entry thereof; or

(i) Change of Control. Other than pursuant to the Chapter 11 Plan, a Change of Control shall occur; or

(j) Bankruptcy Events. The occurrence of any of the following in any of the Chapter 11 Cases or the Canadian Recognition Proceeding:

(i) other than a motion in support of the DIP Order, the bringing of a motion, taking of any action or the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto by any of the Credit Parties in the Chapter 11 Cases: (A) to obtain additional financing under Section 364(c) or Section 364(d) of the Bankruptcy Code or under the CCAA not otherwise permitted pursuant to this Agreement; (B) to grant any Lien other than the Permitted Liens; (C) except as provided in the DIP Order, to use cash collateral of (1) the Administrative Agent and the other Secured Parties under Section 363(c) of the Bankruptcy Code without the prior written consent of the Required Lenders (which approval may be communicated via an email from

any of the Specified Lender Advisors) or (2) the Pre-Petition First Lien Lenders or the Pre-Petition First Lien Agent under Section 363(c) of the Bankruptcy Code without the prior written consents of the "Required Lenders" under the Pre-Petition First Lien Credit Agreement; or (D) to take any other action or actions adverse to the Administrative Agent and Lenders or their rights and remedies hereunder, under any other Credit Documents, or their interest in the Collateral;

(ii) (A) other than in accordance with the RSA, (1) the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by a Credit Party, in each case, that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans and to which the Required Lenders do not consent or (2) if any of the Credit Parties or their Subsidiaries shall seek, support or fail to contest in good faith the filing or confirmation of any such plan or entry of any such order that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans, (B) the entry of any order terminating any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation or disclosure statement attendant thereto (or such an order is sought by any party and is not actively contested by the Credit Parties), or (C) the expiration of any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation;

(iii) the entry of an order in any of the Chapter 11 Cases confirming a plan of reorganization or plan of liquidation that is not in accordance with the RSA or otherwise acceptable to the "Requisite Consenting Creditors" as defined in the RSA in their sole discretion (which acceptance may be communicated via an email from any of the Specified Lender Advisors);

(iv) (x) the entry of an order amending, supplementing, staying, vacating or otherwise modifying the Credit Documents, the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents (including any order in respect of the Required Milestones specified herein) without the written consent of the Required Lenders or the filing by a Credit Party of a motion for reconsideration with respect to the DIP Order, or the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order shall otherwise not be in full force and effect or (y) any Credit Party or any Subsidiary shall fail to comply with the DIP Order, the Cash Management Order or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents, in any material respect;

(v) the Bankruptcy Court's or the Canadian Bankruptcy Court's entry of an order granting relief from the automatic stay under Section 362 of the Bankruptcy Code or the CCAA stay, as applicable, to permit foreclosure or to execute upon or enforce a Lien on any Collateral of a value in excess of $100,000;

(vi) [reserved];

(vii) the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of a trustee or an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Credit Parties;

(viii) (A) the dismissal or termination of any Chapter 11 Case or the Canadian Recognition Proceeding or (B) any Credit Party shall file a motion or other pleading seeking the dismissal of the Chapter 11 Cases under Section 1112 of the Bankruptcy Code or otherwise, or the

termination of the Canadian Recognition Proceeding;

(ix) any Credit Party shall file a motion (without consent of the Required Lenders) seeking, or the Bankruptcy Court or the Canadian Bankruptcy Court shall enter an order granting, relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code or the CCA stay, as applicable (A) to allow any creditor (other than the Administrative Agent) to execute upon or enforce a Lien on any Collateral, (B) approving any settlement or other stipulation not approved by the Required Lenders with any creditor of any Credit Party providing for payments as adequate protection or otherwise to such secured creditor (which approval may be communicated via an email from any of the Specified Lender Advisors) or (C) to permit other actions that would have a Material Adverse Effect on the Debtors or their estates (taken as a whole);

(x) the entry of an order in the Chapter 11 Cases or the Canadian Recognition Proceeding avoiding or requiring the disgorgement of any portion of the payments made on account of the Obligations owing under this Agreement or the other Credit Documents or the Pre-Petition Obligations owing under the Pre-Petition Credit Documents;

(xi) the failure of any Credit Party to perform any of its obligations under the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any order of the Bankruptcy Court approving any Transaction or to perform in any material respect its obligations under any order of the Bankruptcy Court approving bidding procedures;

(xii) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court or the Canadian Bankruptcy Court authorizing any claims or charges, other than in respect of this Agreement and the other Credit Documents, or as otherwise permitted under the applicable Credit Documents or permitted under the DIP Order, entitled to superpriority administrative expense claim status in any Chapter 11 Case pursuant to Section 364(c)(1) of the Bankruptcy Code or superiority pursuant to the CCAA, as applicable, pari passu with or senior to the claims of the Administrative Agent and the Secured Parties under this Agreement and the other Credit Documents, or there shall arise or be granted by the Bankruptcy Court or the Canadian Bankruptcy Court (i) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 or clause (b) of Section 507 of the Bankruptcy Code or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Credit Documents or in the DIP Order or the Canadian DIP Recognition Order then in effect (including the Carve Out and the CCAA Administration Charge);

(xiii) the DIP Order shall cease to create a valid and perfected Lien (which creation and perfection shall not require any further action other than the entry of and terms of the DIP Order) on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders;

(xiv) an order in the Chapter 11 Cases shall be entered (i) charging any of the Collateral under Section 506(c) of the Bankruptcy Code against the Administrative Agent and the Secured Parties, or the "Secured Parties" under either Pre-Petition Credit Agreement, or (ii) limiting the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date or the commencement of other legal proceeding by a Credit Party that are materially adverse to the Administrative Agent, the Secured Parties or their respective rights and remedies under the Credit Documents in any Chapter 11 Cases or inconsistent with the

Credit Documents;

(xv) any order having been entered or granted (or requested, unless actively opposed by the Credit Parties) by either any of the Bankruptcy Court, the Canadian Bankruptcy Court or any other court of competent jurisdiction materially adversely impacting the rights and interests of the Administrative Agent and the Lenders and the other Secured Parties, as determined by the Required Lenders, acting reasonably, without the prior written consent of the Administrative Agent and the Required Lenders;

(xvi) an order of the Bankruptcy Court shall be entered denying or terminating use of cash collateral by the Credit Parties authorized by the DIP Order;

(xvii) if the Final Order does not include a waiver, in form and substance satisfactory to the Administrative Agent and the Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), of (i) the right to surcharge the Collateral under Section 506(c) of the Bankruptcy Code and (ii) any ability to limit the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Pre-Petition Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date;

(xviii) any Credit Party shall challenge, support or encourage a challenge of any payments made to the Administrative Agent, any Lender or any other Secured Party with respect to the Obligations or to the Pre-Petition Agents or the Pre-Petition Lenders with respect to the Pre-Petition Obligations, or without the consent of the Administrative Agent or the "Required Lenders" as defined in the Pre-Petition First Lien Credit Agreement, the filing of any motion by the Credit Parties seeking approval of (or the entry of an order by the Bankruptcy Court or the Canadian Bankruptcy Court approving) adequate protection to any Pre-Petition Agent or lender that is inconsistent with the DIP Order;

(xix) without the Administrative Agent's and the Required Lenders' consent, the entry of any order by the Bankruptcy Court or the Canadian Bankruptcy Court granting, or the filing by any Credit Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court (in each case, other than the DIP Order and the Canadian DIP Recognition Order and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's and the Required Lenders' consent or to obtain any financing under Section 364 of the Bankruptcy Code or the CCAA other than the Credit Documents;

(xx) if, unless otherwise approved by the Administrative Agent and the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors and which approval of the Administrative Agent may be communicated via an email from the Agent Advisors), an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Cases and such order shall not be reversed or vacated within ten days;

(xxi) without Required Lender consent, any Credit Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court seeking (a) to grant or impose, under Section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior or equal to the Collateral Agent's liens and security interests (except as provided in the DIP Order or the Canadian DIP Recognition Order); or (b) to modify or affect any of the rights of the Administrative Agent, the Lenders or any other

Secured Party under the DIP Order, the Canadian DIP Recognition Order, the Credit Documents, and related documents, other than in accordance with the Chapter 11 Plan;

(xxii) any Credit Party or any Subsidiary thereof or any Debtor shall commence any legal proceeding or take any action in support of any matter set forth in this Section 11.1(j) or any other Person shall do so and such application is not contested in good faith by the Credit Parties and the relief requested is granted in an order that is not stayed pending appeal

(xxiii) any Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtors shall occur, or any material damage to or loss of material assets of any Debtor shall occur;

(xxiv) failure of any Credit Party to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to Permitted Variance) and this Agreement;

(xxv) the occurrence of any RSA Termination Event (unless waived in accordance with the terms of the RSA); or

(xxvi) the Canadian DIP Recognition Order shall cease to create the CCAA DIP Lenders Charge (which creation and perfection shall not require any further action other than the entry of and terms of the Canadian DIP Recognition Order) on the Canadian Property or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders.

11.2 Remedies Upon Event of Default.

(a) Subject to the terms of the DIP Order and the Remedies Notice Period, if any Event of Default occurs and is continuing, notwithstanding the provisions of Section 362 of the Bankruptcy Code, and any stay under the CCAA, without any application, motion or notice to, hearing before, or order from the Bankruptcy Court or the Canadian Bankruptcy Court, then, the Administrative Agent, upon the Direction of the Required Lenders (subject to Section 13) shall declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement immediately become due and payable, but without affecting the Collateral Agent's Liens or the Obligations, and the Administrative Agent, upon the request of the Required Lenders (subject to Section 13), shall: (i) terminate, reduce or restrict the right or ability of the Credit Parties to use any cash collateral; (ii) declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable, (iii) subject to the Remedies Notice Period, (A) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Credit Documents or applicable law or (B) take any and all actions described in the DIP Order; and (iv) deliver a Carve Out Trigger Notice.

(b) At any hearing during the Remedies Notice Period to contest the enforcement of remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred, and the Credit Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in way impair or restrict the rights and remedies of the Administrative Agent or the Secured Parties, as set forth in this Agreement, the applicable DIP Order, Canadian DIP Recognition Order or other Credit Documents. Except as expressly provided above in this Article VII, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

11.3 License; Access; Cooperation. Subject to any previously granted licenses, each of the Administrative Agent and the Collateral Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (to the extent permitted under the applicable licenses and without payment of royalty or other compensation to any Person) any or all Intellectual Property of Credit Parties, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral (in each case after the occurrence, and during the continuance, of an Event of Default). Each of the Administrative Agent and the Collateral Agent (together with its agents, representatives and designees) is hereby granted a non-exclusive right to have access to, and a rent free right to use, any and all owned or leased locations (including, without limitation, warehouse locations, distribution centers and store locations) for the purpose of arranging for and effecting the sale or disposition of Collateral, including the production, completion, packaging and other preparation of such Collateral for sale or disposition (it being understood and agreed that each of the Administrative Agent and the Collateral Agent and its representatives (and persons employed on their behalf), may continue to operate, service, maintain, process and sell the Collateral, as well as to engage in bulk sales of Collateral). Upon the occurrence and the continuance of an Event of Default and the exercise by the Administrative Agent or Lenders of their rights and remedies under this Agreement and the other Credit Documents, the Borrower shall assist the Administrative Agent, the Collateral Agent and Lenders in effecting a sale or other disposition of the Collateral upon such terms as are reasonably acceptable to the Administrative Agent and Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

Section 12. Administrative Agent.

12.1 Appointment.

(a) Each Lender hereby irrevocably designates and appoints Wilmington Savings Fund Society, FSB as Administrative Agent and Escrow Agent hereunder and under the other Credit Documents, as applicable, and irrevocably authorizes the Administrative Agent and the Escrow Agent, each in its respective capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent and the Escrow Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Sections 12.1, 12.9, 12.11 and 12.12 with respect to the Parent) are solely for the benefit of the Agents, the Escrow Agent and the Lenders, and none of the Parent, the Borrower or any other Credit Party shall have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement or any other Credit Document, neither Administrative Agent nor the Escrow Agent will have any duties or responsibilities, except those expressly set forth herein or in the Escrow Agreement, as applicable, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent or the Escrow Agent. In performing its functions and duties hereunder, each Agent and the Escrow Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Credit Party or any of their respective Subsidiaries.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding

any provision to the contrary elsewhere in this Agreement or any other Credit Document, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent and the Lenders and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each Lender hereby irrevocably authorizes the Administrative Agent, based upon the instruction of the Required Lenders (but subject in all respects to the RSA), to credit bid and purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted by the Administrative Agent or the Collateral Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC (or any equivalent provision of the UCC), and the PPSA, at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code, or under Canadian Bankruptcy and Insolvency Law, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Requirements of Law. In no event shall the Agent be obligated to take title to or possession of Collateral in its own name, or otherwise in a form or manner that may, in its reasonable judgment, expose it to liability; provided that if any Agent declines to take title to or possession of Collateral because it exposes it to liability, it will promptly notify the Specified Lender Advisors thereof.

(d) Each Lender irrevocably appoints each other Lender as its agent and bailee for the purpose of perfecting Liens (whether pursuant to Section 8-301(a)(2) of the UCC or otherwise), for the benefit of the Secured Parties, in assets in which, in accordance with the UCC and the PPSA or any other applicable Requirement of Law a security interest can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly following the Administrative Agent's request therefor, shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

12.2 Delegation of Duties. The Agents may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents, subagents or attorneys-in-fact selected by it in the absence of its gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

12.3 Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the creation, perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of any Credit Party to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof. The Collateral Agent shall not be under any obligation

to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party. The rights, privileges, protections, immunities and benefits given to each Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by such Agent in each Credit Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as such Agent in each of its capacities hereunder and in each of its capacities under any Credit Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Credit Document or related document, as the case may be. Notwithstanding anything contained in this Agreement to the contrary, neither Agent shall be under any obligation (i) to monitor, determine or verify the unavailability or cessation of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any date on which such rate may be required to be transitions or replaced in accordance with the terms of the Credit Documents, applicable law or otherwise, (ii) to select, determine or designate any replacement to such rate, or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate have been satisfied, (iii) to select, determine or designate any modifier to any replacement or successor index, or (iv) to determine whether or what any amendments to this Agreement or the other Credit Documents are necessary or advisable, if any, in connection with any of the foregoing. Neither Agent shall be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Agreement or any other Credit Document as a result of the unavailability of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), including as a result of any inability, delay, error or inaccuracy on the part of any other party, including without limitation the Required Lenders or the Credit Parties, in providing any direction, instruction, notice or information required or contemplated by the terms of this Agreement and reasonably required for the performance of such duties. Neither Agent shall have any liability for any interest rate published by any publication that is the source for determining the interest rates of the Loans, including but not limited to Bloomberg (or any successor source) and the Reuters Screen (or any successor source), or for any rates compiled by the ICE Benchmark Administration or any successor thereto, or for any rates published on any publicly available source, including without limitation the Federal Reserve Bank of New York's Website, or in any of the foregoing cases for any delay, error or inaccuracy in the publication of any such rates, or for any subsequent correction or adjustment thereto.

12.4 Reliance by Agents. The Agents shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including the Agent Advisors, the Lender Advisors, the Specified Lender Advisors and counsel to the Escrow Agent), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or a Direction of the Required Lender or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders or a Direction of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans; provided that the Administrative Agent and the Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or applicable law. Notwithstanding anything contained in this Credit Agreement or the other Credit Documents to the contrary, without limiting any rights,

protections, immunities or indemnities afforded to the Administrative Agent and the Collateral Agent hereunder (including without limitation this Section 12), phrases such as "satisfactory to the [Administrative] [Collateral] Agent," "approved by the [Administrative] [Collateral] Agent," "acceptable to the [Administrative] [Collateral] Agent," "as determined by the [Administrative] [Collateral] Agent," "designed by the [Administrative][Collateral] Agent", "specified by the [Administrative][Collateral] Agent", "in the [Administrative] [Collateral] Agent's discretion," "selected by the [Administrative] [Collateral] Agent," "elected by the [Administrative] [Collateral] Agent," "requested by the [Administrative] [Collateral] Agent," "in the opinion of the [Administrative] [Collateral] Agent," and phrases of similar import that authorize or permit the Administrative Agent or the Collateral Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Administrative Agent or Collateral Agent, as applicable, receiving a Direction of the Required Lenders or other written direction from the Lenders or Required Lenders, as applicable, to take such action or to exercise such rights.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders, the Escrow Agent and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable.

12.6 Non-Reliance on Administrative Agent, Collateral Agent, and Other Lenders. Each Lender expressly acknowledges that no Agent nor the Escrow Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent or the Escrow Agent hereinafter taken, including any review of the affairs of any Credit Party, shall be deemed to constitute any representation or warranty by any Agent or the Escrow Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower and each other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any of the Credit Parties. Except for notices, reports, and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent nor the Escrow Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Credit Party that may come into the possession of any Agent or the Escrow Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7 Indemnification. The Lenders agree to severally indemnify each Agent and the Escrow Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Total Credit

Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent or the Escrow Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the any Agent or the Escrow Agent under or in connection with any of the foregoing; provided that no Lender shall be liable to an Agent or the Escrow Agent for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction; provided, further, that no action taken by any Agent or the Escrow Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent and the Escrow Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent or the Escrow Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent or the Escrow Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. If any indemnity furnished to any Agent or the Escrow Agent for any purpose shall, in the opinion of such Agent or the Escrow Agent, as applicable, be insufficient or become impaired, such Agent or the Escrow Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided that in no event shall this sentence require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's pro rata portion thereof; and provided, further, this sentence shall not be deemed to require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder. The indemnity provided to each Agent and the Escrow Agent under this Section 12.7 shall also apply to such Agent's and the Escrow Agent's respective Affiliates, directors, officers, members, partners, representatives, assigns, controlling persons, employees, trustees, investment advisors and agents and successors.

12.8 Agents in Their Individual Capacities. If applicable, the agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. Each Agent, the Escrow Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Credit Party as though such Agent or the Escrow Agent were not an Agent or the Escrow Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent and the Escrow Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may

exercise the same as though it were not an Agent or the Escrow Agent, and the terms Lender and Lenders shall include each Agent and the Escrow Agent in its individual capacity.

12.9 Successor Agents.

(a) Each Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right (subject to the consent of the Borrower (not to be unreasonably withheld, delayed or conditioned) so long as no Event of Default is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (the "**Resignation Effective Date**"), then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above (including receipt of the Borrower's consent); provided that if the any Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice.

(b) [Reserved].

(c) With effect from the Resignation Effective Date, (1) the retiring or removed agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the retiring Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as the Administrative Agent or the Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section 12.9). Except as provided above, any resignation of Wilmington Savings Fund Society, FSB as the Administrative Agent pursuant to this Section 12.9 shall also constitute the resignation of Wilmington Savings Fund Society, FSB as the Collateral Agent and the Escrow Agent, subject to the terms of the Escrow Agreement. The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including Section 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender under any Credit Document an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of

a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective) or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Credit Party and without limiting the obligation of any applicable Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due to the Administrative Agent under this Section 12.10. The agreements in Section 12.10 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

12.11 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Maturity Date and Full Payment of all Obligations (except for contingent indemnification obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, (v) that constitutes Excluded Property or (vi) if approved, authorized or ratified in writing in accordance with Section 13.1; (b) release any Guarantor from its obligations under the Guarantee if such Person ceases to be a Credit Party (or becomes an Excluded Subsidiary) as a result of a transaction or designation permitted hereunder or (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (vi) (solely with respect to Section 10.1(d)), and (ix) of the definition of Permitted Lien. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Credit Parties, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, the Credit Parties or any substantial part of its property, or otherwise, all as though such payment had not been made.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrower under this Section 12.11, irrespective of any discharge of the Borrower's obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrower to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrower to the Collateral Agent under this Section 12.11 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and

payable by the Borrower to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.11.

Prior to taking any action or executing any document pursuant to this Section 12.11 or Section 12.12, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by a Financial Officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied. The Administrative Agent and the Collateral Agent shall not be liable for executing any documents or instruments pursuant to Section 12.11 or 12.12 to the extent the Collateral Agent did so upon the Direction of the Required Lenders (which consent may be provided via email by any of the Specified Lender Advisors).

12.12 Right to Realize on Collateral and Enforce Guarantee.

(a) Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrower (on behalf of itself and each other Credit Party), the Administrative Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Credit Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms hereof and thereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms thereof, and (ii) in the event of a foreclosure or similar enforcement action by the Administrative Agent or the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code), the Administrative Agent or the Collateral Agent (or any Lender, except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code) may, upon instruction from the Required Lenders, be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent or the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent at such sale or other disposition.

(b) Release of Collateral and Guarantees, Termination of Credit Documents.

(i) Notwithstanding anything to the contrary contained herein or any other Credit Document, when all Obligations have been Paid in Full and all Commitments have terminated or expired, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any other Secured Party) take such actions as shall be required or reasonably requested to release its security interest in all Collateral, and to release all guarantee obligations provided for in any Credit Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Credit Party, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, any Credit Party or any substantial part of its property, or otherwise, all as though such payment had

not been made.

(ii) The Agents shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(iii) In case of the pendency of any proceeding under the Bankruptcy Code or any other Debtor Relief Laws relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(A) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(B) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due the Administrative Agent under this Agreement) allowed in such judicial proceeding; and

(C) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

(D) and any custodian, administrator, administrative receiver, receiver, receiver and manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under this Agreement out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

(iv) Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, plan of liquidation, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

12.13 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Credit Party or any other obligor under any of the Credit Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures or cause any of the foregoing (through Affiliates or otherwise), with respect to any Collateral or any other property of any such Credit Party, without the prior written consent of the Administrative Agent (at the Direction of the Required Lenders). Without limiting the foregoing, each Lender agrees that, except as otherwise provided in any Credit Documents or with the written consent of the Administrative Agent (at the Direction of the Required Lenders), it will not take any enforcement action, accelerate Obligations under any Credit Documents, or exercise any right that it might otherwise have under applicable Requirement of Law to credit bid or purchase any portion of the Collateral at any sale or foreclosure thereof referred to in Section 12.1; provided that nothing contained in this Section shall affect any Lender's right to credit bid its pro rata share of the Obligations pursuant to Section 363(k) of the Bankruptcy Code.

12.14 Carve Out Account. In connection with the DIP Order, the Administrative Agent is hereby authorized and directed to establish and maintain a single segregated non-interest bearing trust account which shall be designated as the "Pre-Carve Out Trigger Notice Reserve Account" and a single segregated non-interest bearing trust account which shall be designated as the "Post-Carve Out Trigger Notice Reserve Account" (such accounts, collectively, the "**Carve Out Accounts**"). Funds will be deposited into and remitted from the Carve Out Accounts in accordance with and pursuant to the terms of the DIP Order.

Section 13. Miscellaneous

13.1 Amendments, Waivers, and Releases.

(a) (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. Other than with respect to any amendment, modification or waiver contemplated in the proviso to clause (i) below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (A) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (B) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or the Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (x) (i) forgive or reduce any portion of any Loan or extend the scheduled maturity date of any Loan or reduce the stated rate of interest, premium or fees (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion thereof, or extend the date for the payment of any interest,

premium or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or amend or modify any provisions of Sections 5.3(a) (with respect to the ratable allocation of any payments only) 13.9(a) or 13.20, or make any Loan, interest, Fee or other amount payable in any currency other than expressly provided herein, in each case without the written consent of each Lender directly and adversely affected thereby; provided that a waiver of any condition precedent in Sections 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial covenant definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium, interest or fees or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, in each case for purposes of this clause (i), or (ii) consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3), in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of this Agreement or any other Credit Document without the written consent of each Agent or the Escrow Agent in a manner that directly and adversely affects such Agent or the Escrow Agent, as applicable, or (iv) [reserved], or (v) [reserved], or (vi) [reserved], or (vii) release all or substantially all of the Guarantors under the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (viii) [reserved], or (ix) reduce the percentages specified in the definitions of the terms Required Lenders or amend, modify or waive any provision of this Section 13.1 that has the effect of decreasing the number of Lenders that must approve any amendment, modification or waiver, without the written consent of each Lender or (y) notwithstanding anything to the contrary in clause (x), (i) extend the final expiration date of any Lender's Commitment or (ii) increase the aggregate amount of the Commitments of any Lender, in each case, without the written consent of such Lender.

(b) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (x) that the Commitment of such Lender may not be increased or extended without the consent of such Lender, (y) for any such amendment, waiver or consent that treats such Defaulting Lender disproportionately from the other Lenders (other than because of its status as a Defaulting Lender), and (z) that the principal amount of any Loan owed to such Lender may not be decreased or reduced without the consent of such Lender.

(c) [Reserved].

(d) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Parent, the Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Parent, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

(e) [Reserved].

(f) [Reserved].

(g) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement, (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents, and (vii) if such assets constitute Excluded Property. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender. Prior to taking any action or executing any document pursuant to this section, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied.

(h) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrower and the Administrative Agent.

(i) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.1) or any other Credit Document to the contrary, (i) [reserved]; (ii) [reserved]; (iii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iv) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor) and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent (in each case acting at the Direction of the Required Lenders in their sole discretion), to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required

by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with any applicable Requirement of Law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent, the Required Lenders and the Borrower) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(j) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Required Lenders may, in their sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.12, 9.13 and 9.14 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Borrower and the other Credit Parties by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Documents.

13.2 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Parent, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Parent, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9 and 5.1 shall not be effective until received.

13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5 Payment of Expenses; Indemnification.

(a) The Borrower agrees to pay promptly following demand (and in any event as required by the DIP Order and/or the Canadian DIP Recognition Order), without the requirement of prior Bankruptcy Court approval and whether incurred before or after the Petition Date, all reasonable and documented out-of-pocket legal, accounting, appraisal, consulting, financial advisory and other fees, costs and expenses (including, without limitation, in respect of the Specified Lender Advisors, the Crossholder Lender Advisors, the Lender Advisors and the Agent Advisors) incurred by the Agents, the Ad Hoc Group of Lenders, the Ad Hoc Group of Crossholder Lenders and their respective Affiliates in connection with the negotiation, preparation and administration of the Credit Documents, the Interim Order, the Final Order, the Canadian DIP Recognition Order or incurred in connection with:

(i) amendment, modification or waiver of, consent with respect to, or termination of, any of the Credit Documents or advice in connection with the syndication and administration of the Loans made pursuant hereto, including any Withdrawal, or its rights hereunder or thereunder

(ii) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agents, any Lender, the Borrower or any other Person and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the Credit Documents, the Pre-Petition Credit Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case or proceeding commenced by or against any Credit Party or any other Person that may be obligated to the Agents or the Lenders by virtue of the Credit Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; provided that no Person shall be entitled to reimbursement under this clause (ii) in respect of any litigation, contest, dispute, suit, proceeding or action to the extent any of the foregoing results from such Person's gross negligence or willful misconduct (as determined by a final non-appealable judgment of a court of competent jurisdiction);

(iii) any attempt to enforce or prosecute any rights or remedies of the Agents or any Lender against any or all of the Credit Parties or any other Person that may be obligated to the Agents or any Lender by virtue of any of the Credit Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans prior to or during the pendency of one or more Events of Default;

(iv) any work-out or restructuring of the Obligations prior to or during the pendency of one or more Events of Default;

(v) [reserved];

(vi) the obtaining of approval of the Credit Documents by the Bankruptcy Court or any other court;

(vii) the preparation and review of pleadings, documents, orders and reports related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, attendance at meetings, court hearings or conferences related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, and general monitoring of the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases and any action, arbitration or other proceeding (whether instituted by or against the Agents, any Lender, any Credit Party, any representative of creditors of an Credit Party or any other Person) in any way relating to any

Collateral (including the validity, perfection, priority or avoidability of the Liens with respect to any Collateral), the Pre-Petition Credit Documents, Credit Documents or the Obligations, including any lender liability or other claims;

(viii) efforts to (1) monitor the Loans or any of the other Obligations, (2) evaluate, observe or assess any of the Credit Parties or their respective affairs, (3) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral or (4) settle or otherwise satisfy any charges or Liens with respect to any Collateral;

(ix) any lien searches or request for information listing financing statements or liens filed or searches conducted to confirm receipt and due filing of financing statements and security interests in all or a portion of the Collateral; and

(x) including, as to each of clauses (i) through (ix) above, all reasonable and documented professional and service providers' fees arising from such services and other advice, assistance or other representation, including those in connection with any appellate proceedings, and all reasonable and documented out-of-pocket expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 13.5, all of which shall be payable by Borrower to the Agents or the Lenders, as applicable.

Without limiting the generality of the foregoing, such reasonable expenses, costs, charges and fees may include: reasonable and documented out-of-pocket fees, costs and expenses of accountants, sales consultants, financial advisors, the Agent Advisors, any Specified Lender Advisors, any Lender Advisor, environmental advisors, appraisers, investment bankers, management and other consultants; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; air express charges, and reasonable expenses for travel, lodging and food paid or incurred in connection with the performance of such legal, professional or other advisory services; provided that, notwithstanding anything to the contrary contained in this Section 13.5(a) or in any other Credit Document, each Credit Party reaffirms its obligation to pay the fees as set forth in the Financial Advisor Engagement Letters.

(b) The Borrower (on behalf of itself and the other Credit Parties) agrees to pay, indemnify and hold harmless each Lender, each Agent and their respective Related Parties (without duplication) (the "**Indemnified Persons**") from and against any and all losses, claims, damages, liabilities, obligations, demands, actions, judgments, suits, costs, expenses, disbursements or penalties of any kind or nature whatsoever (and the reasonable and documented fees, expenses, disbursements and other charges of any Specified Lender Advisors, any Lender Advisors and the Agent Advisors owed pursuant to Section 13.5(a)) of any such Indemnified Person arising out of or relating to any action, claim, litigation, investigation or other proceeding (regardless of whether such Indemnified Person is a party thereto), arising out of any Commitment, Loan or the use or proposed use of the proceeds therefrom, arising out of, or with respect to the Transactions or to the execution, delivery, performance, administration and enforcement of this Agreement, the other Credit Documents and any such other documents, agreements, letters or instruments delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, including any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law or any actual or alleged presence, Release or threatened Release of Hazardous Materials attributable to any Credit Party or any of its Subsidiaries (all the foregoing in this clause (iii), regardless of whether brought by any Credit Party, any of its subsidiaries or any other Person collectively, the "**Indemnified Liabilities**"); provided that the Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from (i) the gross negligence, bad faith or willful misconduct of such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, (ii) a material

breach of the obligations of such Indemnified Person (other than with respect to each Agent) or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (iii) any proceeding between and among Indemnified Persons that does not involve an act or omission by any Credit Party or any of their respective Subsidiaries; provided the Agents, to the extent acting in their capacity as such, shall remain indemnified in respect of such proceeding, to the extent that the exception set forth in the immediately preceding clause (i) of the immediately preceding proviso does not apply to such Agent at such time. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(c) Each Indemnified Person agrees (x) that the Borrower shall have no obligation to reimburse such Indemnified Person for fees and expenses and (y) to return and refund any and all amounts paid by the Borrower pursuant to this Section 13.5, in the case of each of clauses (x) and (y), to the extent such Indemnified Person is not entitled to payment of such amounts in accordance with the terms of the Credit Documentation.

(d) No Credit Party or Indemnified Person (or any Related Party of an Indemnified Person) shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that the foregoing shall not limit the Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.5(a) or under any other provision of this Agreement or any of the other Credit Agreement Documents. No Indemnified Person (or any Related Party of an Indemnified Person) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) All amounts reimbursable by the Borrower under this Section 13.5 shall constitute Obligations secured by the Collateral. The agreements in this Section 13.5 shall survive the termination of the Commitments and repayment of all other Obligations. All amounts due under this Section 13.5 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto. If the Borrower fail to pay when due any amounts payable by it hereunder or under any Credit Document, such amount may be paid on behalf of the Borrower by the Administrative Agent in its discretion by charging any loan account(s) of the Borrower, without notice to or consent from the Borrower, and any amounts so paid shall constitute Obligations hereunder.

13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby,

the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below and Section 13.7, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of

(A) the Parent; provided that no consent of the Borrower shall be required for (1) an assignment Loans or Commitments of to a Lender, an Affiliate of a Lender, or an Approved Fund or (2) an assignment of Loans or Commitments to any assignee if an Event of Default has occurred and is continuing or (3) so long as made in accordance with the RSA; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

The Parent's consent shall be deemed to have been given if the Borrower has not responded within four Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 in the case of Term Loans (and shall, in each case be in an integral multiple thereof), unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld, delayed or conditioned) or, if less, the assignment constitutes all of the applicable Lender's Term Loans; provided that no such consent of the Borrower shall be required if an Event of Default under Section 11.1(a) has occurred and is continuing; provided, further, that contemporaneous assignments by a Lender and its Affiliates or Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above (and simultaneous assignments to or by two or more Related Funds shall be treated as one assignment), if any;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of the Term Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic

settlement system or other method reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "**Administrative Questionnaire**") and applicable tax forms (as required under Section 5.4(e)); and

(E) any assignment to an Affiliated Lender (other than an Affiliated Institutional Lender) shall also be subject to the requirements of Section 13.6(h); and

(F) such assignment shall be permitted by, and in accordance with, the RSA.

For the avoidance of doubt, the Administrative Agent bears no responsibility for tracking or monitoring assignments to or participations by any Affiliated Lender.

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(v) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and the other Credit Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 3.5, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6. For the avoidance of doubt, in case of an assignment to a new Lender pursuant to this Section 13.6, (i) the Administrative Agent, the new Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the new Lender been an original Lender signatory to this Agreement with the rights and/or obligations acquired or assumed by it as a result of the assignment and to the extent of the assignment the assigning Lender shall each be released from further obligations under the Credit Documents and (ii) the benefit of each Security Document shall be maintained in favor of the new Lender.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans (and stated interest amounts) owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent, the Administrative Agent and its Affiliates and, with respect to itself, any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Borrower hereby designates the Administrative Agent to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 13.6(b)(iv). This Section 13.6(b)(iv) shall

be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury Regulations (or any other relevant or successor provisions of the Code or of such Treasury Regulations).

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (as required under Section 5.4(e) unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause (b)(v).

(c) (i) Any Lender may, without the consent of, or notice to the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (other than (x) a natural person, (y) any Credit Party or any of their Subsidiaries and (z) [reserved] (each, a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (i) and (vii) of the third proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11, 3.5, and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4) (it being agreed that any documentation required under Section 5.4(e) shall be provided to the participating Lender)). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.9(b) as though it were a Lender; provided such Participant shall be subject to Section 13.9(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than the applicable Lender would have been entitled to receive absent the sale of such the participation sold to such Participant, except to the extent such entitlement to a greater payment results from a Change in Law after the sale of the participations takes place. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) except to the extent that such disclosure is necessary in connection with a tax audit or other proceeding to establish that such commitment, loan, or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(d) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, or other central bank having jurisdiction over such Lender, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "**Transferee**") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPV**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other Person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) subject to Section 13.16, disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement but subject to the following sentence, each SPV shall be entitled to the benefits of Sections 2.10, 2.11, 3.5 and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender

and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4 (it being agreed that any documentation required under Section 5.4(e) shall be provided to the Granting Lender)). Notwithstanding the prior sentence, an SPV shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than its Granting Lender would have been entitled to receive absent the grant to such SPV, unless such grant to such SPV is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

(h) Notwithstanding anything to the contrary contained herein (and so long as no Event of Default is then continuing), (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender; provided that:

(i) [reserved];

(ii) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (I) attend or participate in (including, in each case, by telephone) any meeting (including "Lender only" meetings) or discussions (or portion thereof) among the Administrative Agent or any Lender at which representatives of the Borrower are not then present, (II) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders or any other material which is "Lender only", except to the extent such information or materials have been made available to the Borrower or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Section 2) or receive any advice of counsel to the Administrative Agent or (III) make any challenge to the Administrative Agent's or any other Lender's attorney-client privilege on the basis of its status as a Lender; and

(B) except with respect to any amendment, modification, waiver, consent or other action (I) in Section 13.1 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (II) that alters an Affiliated Lender's pro rata share of any payments given to all Lenders, or (III) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and, in the case of a plan of reorganization that does not affect the Affiliated Lender in a manner that is materially adverse to such Affiliated Lender relative to other Lenders, shall be deemed to have voted its interest in the Term Loans in the same proportion as the other Lenders) (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph); and

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders may not exceed 25% of the aggregate principal amount of all Term Loans outstanding at the time of such purchase.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders. None of the Borrower, the Parent, any other Subsidiary of the Parent or any Affiliated Lender shall be required to make any representation that it is not in possession of information which is not publicly available and/or material with respect to the Parent, the Borrower and their respective Subsidiaries or their respective securities for purposes of U.S. federal and state securities laws and all parties to the relevant transactions shall render customary "big boy" disclaimer letters.

(i) Notwithstanding anything to the contrary contained herein, the Lenders hereto on the Funding Date may assign all or a portion of its rights and obligations under this Agreement in respect of the Term Loans on the Funding Date to an Affiliated Lender or any Pre-Petition Lender (or any Affiliated Lender thereof) in connection with the syndication of the Term Loans contemplated in the RSA.

13.7 [Reserved]

13.8 Replacement of Lenders Under Certain Circumstances.

(a) The Borrower, at its cost and expense (which, for the avoidance of doubt, may be shared with the replacement institution with such institution's consent), shall be permitted to replace any Lender, and in the case of a Lender repay all Obligations of the Borrower due and owing to such Lender relating to the Loans that (a) requests reimbursement for amounts owing pursuant to Sections 2.10 or 5.4, (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, or (c) becomes a Defaulting Lender, with a replacement bank or other financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts pursuant to Sections 2.10, 2.11, 5.4 or 13.5, as the case may be, owing to such replaced Lender prior to the date of replacement, (iv) the replacement bank or institution, if not already a Lender, an Affiliate of the Lender, an Affiliated Lender or Approved Fund, and the terms and conditions of such replacement, shall be satisfactory to the Required Lenders, (v) the replacement bank or institution, if not already a Lender shall be subject to the provisions of Section 13.6(a), (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that unless otherwise agreed the Borrower shall be obligated to pay the registration and processing fee referred to therein), and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, any Agent, the Escrow Agent or any other Lender shall have against the replaced Lender. Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 13.7 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

13.9 Adjustments; Set-off. Subject to Section 12.13, the Carve Out and the CCAA Administration Charge,

(a) Except as contemplated in Section 13.6 or elsewhere herein, if any Lender (a **"Benefited Lender**") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(e), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders;

provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) Subject to the DIP Order, after the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final) (other than payroll, trust, tax, fiduciary, and petty cash accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify the Credit Parties and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.10 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

13.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13.12 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Agents, the Escrow Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrower, the other Credit Parties, any Agent, the Escrow Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents. To the extent there are any inconsistencies between the terms of this Agreement or any Credit Document and the DIP Order, the provisions of the DIP Order shall govern.

13.13 GOVERNING LAW; CONSENT TO SERVICE OF PROCESS.

(a) THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THE LAW OF THE STATE OF NEW YORK IS SUPERSEDED BY THE BANKRUPTCY CODE.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT SHALL BE BROUGHT IN THE BANKRUPTCY COURT, AND, IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM) JURISDICTION, IN THE COURTS OF THE STATE OF NEW YORK AND THE COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE LOCATED IN NEW YORK COUNTY, AND APPELLATE COURTS FROM ANY THEREOF, AND, BY

EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS. EACH PARTY HERETO HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF THE BANKRUPTCY COURT AND IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE AGENT AT ITS ADDRESS FOR NOTICES AS SET FORTH HEREIN. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY OTHER PARTY IN ANY OTHER JURISDICTION. EACH OF THE PARTIES HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN SUCH COURT AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS.

13.14 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution, and delivery of this (a) it has been advised by counsel in the negotiation, execution, and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower and the other Credit Parties, on the one hand, and the Administrative Agent, the Lenders, the other Agents and the Escrow Agent on the other hand, and the Borrower and the other Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof);

(i) in connection with the process leading to such transaction, each of the Administrative Agent, the other Agents and the Escrow Agent, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees, or any other Person;

(ii) neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, other Agents, the Escrow Agent or any Lender has advised or is currently advising the Borrower, the

other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent, other Agents, the Escrow Agent nor any Lender has any obligation to the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents;

(iii) the Administrative Agent, each other Agent, the Escrow Agent, each Lender and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and their Affiliates, and neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and

(iv) neither the Administrative Agent, any other Agent, the Escrow Agent any Lender nor any of their respective Affiliates has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby agrees (on behalf of itself and the other Credit Parties) that it will not claim that any Agent or the Escrow Agent owes a fiduciary or similar duty to the Credit Parties in connection with the Transactions contemplated hereby and waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, any other Agent, the Escrow Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

13.15 WAIVERS OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.16 Confidentiality. The Administrative Agent, each other Agent and each Lender (collectively, the "**Restricted Persons**" and, each a "**Restricted Person**") shall treat confidentially all non-public information provided to any Restricted Person by or on behalf of any Credit Party hereunder with respect to such Credit Party or any of its Subsidiaries and their businesses in connection with such Restricted Person's evaluation of whether to become a Lender hereunder or obtained by such Restricted Person pursuant to the requirements of this Agreement ("**Confidential Information**") and shall not publish, disclose or otherwise divulge such Confidential Information; provided that nothing herein shall prevent any Restricted Person from disclosing any such Confidential Information (a) pursuant to the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by applicable law, rule or regulation or compulsory legal process (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (b) upon the request or demand of any regulatory authority having jurisdiction over such Restricted Person or any of its Affiliates (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority) to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (c) to the extent that such Confidential Information becomes

publicly available other than by reason of improper disclosure by such Restricted Person or any of its affiliates or any related parties thereto in violation of any confidentiality obligations owing under this Section 13.16, (d) to the extent that such Confidential Information is received by such Restricted Person from a third party that is not, to such Restricted Person's knowledge, subject to confidentiality obligations owing to any Credit Party or any of their respective subsidiaries or affiliates, (e) to the extent that such Confidential Information was already in the possession of the Restricted Persons prior to any duty or other undertaking of confidentiality or is independently developed by the Restricted Persons without the use of such Confidential Information, (f) to such Restricted Person's affiliates and to its and their respective officers, directors, partners, employees, legal counsel, independent auditors, and other experts or agents who need to know such Confidential Information in connection with providing the Loans or action as an Agent hereunder and who are informed of the confidential nature of such Confidential Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) (with each such Restricted Person, to the extent within its control, responsible for such person's compliance with this paragraph), (g) to potential or prospective Lenders, hedge providers, participants or assignees, in each case who agree (pursuant to customary syndication practice) to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16); provided that (i) the disclosure of any such Confidential Information to any Lenders, hedge providers or prospective Lenders, hedge providers or participants or prospective participants referred to above shall be made subject to the acknowledgment and acceptance by such Lender, hedge provider or prospective Lender or participant or prospective participant that such Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) in accordance with the standard syndication processes of such Restricted Person or customary market standards for dissemination of such type of information, which shall in any event require "click through" or other affirmative actions on the part of recipient to access such Confidential Information and (ii) [reserved], (h) for purposes of establishing a "due diligence" defense, or (i) to rating agencies in connection with obtaining ratings for the Borrower and the DIP Facility to the extent such rating agencies are subject to customary confidentiality obligations of professional practice or agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16). Notwithstanding the foregoing, (i) Confidential Information shall not include, with respect to any Person, information available to it or its Affiliates on a non-confidential basis from a source other than the Parent, its Subsidiaries or their respective Affiliates, (ii) the Administrative Agent shall not be responsible for compliance with this Section 13.16 by any other Restricted Person (other than its officers, directors or employees), (iii) in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Parent or any of its Subsidiaries, and (iv) each Agent and each Lender may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and the other Credit Documents.

13.17 Direct Website Communications. Each of the Parent and the Borrower may, at their option, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial, and other reports, certificates, and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded

communications being referred to herein collectively as "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Credit Parties, the Administrative Agent, any other Agent, the Escrow Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

The Agents agree that the receipt of the Communications by any Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to such Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(a) The Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "**Platform**"), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(b) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY THE CREDIT PARTIES (THE "**BORROWER MATERIALS**") OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Related Parties (collectively, the "**Agent Parties**" and each an "**Agent Party**") have any liability to the Borrower, any Lender, or any other Person for losses, claims, damages, liabilities, or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or such Agent's transmission of Borrower Materials through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties' (other than any trustee or advisor)) gross negligence, bad faith or willful misconduct as determined in the final non-appealable judgment of a court of competent jurisdiction.

(c) The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to the Parent, the Borrower, the Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrower has indicated contains only publicly available information with

respect to the Borrower may be posted on that portion of the Platform designated for such public-side Lenders. If the Borrower has not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Credit Parties and their securities. Notwithstanding the foregoing, the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information; provided, however, that, the following documents shall be deemed to be marked "PUBLIC," unless the Borrower notifies the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Credit Documents, (2) any notification of changes in the terms of the DIP Facility and (3) all financial statements and certificates delivered pursuant to Sections 9.1(b) and (d).

13.18 USA PATRIOT Act. Each Agent, the Escrow Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**"), it is required to obtain, verify, and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Agent, the Escrow Agent and such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with its normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with its normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate joint and several obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

13.20 Payments Set Aside. To the extent that any payment by or on behalf of the Parent or the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, receiver and manager or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

13.21 No Fiduciary Duty. Each Agent, the Escrow Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that

conflict with those of the Credit Parties, their stockholders and/or their affiliates. Each Credit Party agrees that nothing in the Credit Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Credit Party, its stockholders or its affiliates, on the other. The Credit Parties acknowledge and agree that (i) the transactions contemplated by the Credit Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Credit Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Credit Party, its stockholders or its Affiliates on other matters) or any other obligation to any Credit Party except the obligations expressly set forth in the Credit Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Credit Party, its management, stockholders or creditors. Each Credit Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, in connection with such transaction or the process leading thereto.

13.22 Canadian Anti-Money Laundering. The Borrower acknowledges that, pursuant to AML Legislation, the Agents, the Escrow Agent and the Lenders may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any of the Agents, the Escrow Agent or the Lenders, or any prospective assignee or participant of any of the Agents, the Escrow Agent or the Lenders, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If any of the Agents or the Escrow Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then such Agent or the Escrow Agent, as applicable:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and such Agent within the meaning of applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that none of the Agents nor the Escrow Agent has any obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, nor to confirm the completeness or accuracy of any information any of the Agents or the Escrow Agent obtains from the Borrower or any such authorized signatory in doing so.

13.23 [Reserved].

13.24 Acknowledgement and Consent to Bail-In of any Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Bank

that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of a Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by a Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Bank that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any Resolution Authority.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

POINTWELL LIMITED,
as the Parent

By: _____

Name:
Title:

SKILLSOFT CORPORATION,
as the Borrower

By: _____

Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent, Escrow Agent and Collateral Agent

By: _____

Name:
Title:

_____,
as Lender

By: _____

Name:
Title:

Schedule "L"

Order (I) Scheduling Combined Hearing to Consider (A) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 13**

ORDER (I) SCHEDULING COMBINED HEARING TO CONSIDER (A) APPROVAL OF DISCLOSURE STATEMENT, (B) APPROVAL OF SOLICITATION PROCEDURES AND FORMS OF BALLOTS, AND (C) CONFIRMATION OF PREPACKAGED PLAN; (II) ESTABLISHING AN OBJECTION DEADLINE TO OBJECT TO DISCLOSURE STATEMENT AND PLAN; (III) APPROVING THE FORM AND MANNER OF NOTICE OF COMBINED HEARING, OBJECTION DEADLINE, AND NOTICE OF COMMENCEMENT; (IV) CONDITIONALLY WAIVING REQUIREMENT OF FILING STATEMENT OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES; (V) APPROVING NOTICE AND OBJECTION PROCEDURES FOR THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (VI) CONDITIONALLY WAIVING REQUIREMENT TO CONVENE THE SECTION 341 MEETING OF CREDITORS; AND (VII) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105(a), 341, 521(a), 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1007, 2002, 3017, AND 3018

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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(collectively, the "**Debtors**"), for entry of an order (i) scheduling a combined hearing (the "**Combined Hearing**") to consider (a) approval of the Disclosure Statement and (b) confirmation of the Prepackaged Plan; (ii) establishing an objection deadline to object to the adequacy of the Disclosure Statement or confirmation of the Prepackaged Plan; (iii) approving the Solicitation Procedures; (iv) approving the form and manner of the notice of the Combined Hearing, the Objection Deadline, and notice of commencement; (v) approving the notice and objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan; (vi) extending the deadline for the Debtors to file schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") through and including August 7, 2020 (the "**SOAL/SOFA Deadline**"), and conditionally waiving the requirement that the Debtors file the Schedules and Statements if confirmation of the Prepackaged Plan is obtained; (vii) conditionally waiving the requirement to convene the Section 341 Meeting; and (viii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and

it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The confirmation schedule set forth in the Motion is hereby approved, except as may be modified below.

3. A hearing to consider compliance with disclosure and solicitation requirements and confirmation of the Debtors' Prepackaged Plan (the "**Combined Hearing**") is hereby scheduled to be held before this Court on July 24, 2020 at 10:30 a.m. (prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the electronic case filing docket.

4. Objections to the Disclosure Statement and/or the Prepackaged Plan shall be: (i) in writing; (ii) filed with the Clerk of Court together with proof of service thereof; (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the estate or property of the Debtors, and (iv) state the legal and factual basis for such objection; and (v) conform to the applicable Bankruptcy Rules and the Local Rules, by no later than **4:00 p.m. (prevailing Eastern Time) on July 17, 2020** (the "**Objection Deadline**"). In addition to being filed with the Clerk of the Court, any such Objections should be served upon the following parties in accordance with the Local Rules:

i. Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, NH 03062 (Attn: Greg Porto, Chief People Officer (Greg.Porto@skillsoft.com);

ii. proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (Gary.Holtzer@weil.com), Robert J. Lemons, Esq. (Robert.Lemons@weil.com), and Katherine Theresa Lewis, Esq. (Katherine.Lewis@weil.com)) and Richard, Layton & Finger, P.A. One Rodney Square, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amanda R. Steele, Esq. (steele@rlf.com) and Chris De Lillo, Esq. (delillo@rlf.com));

iii. counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina Brown, Esq. (Christina.brown@gibsondunn.com));

iv. counsel to the Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));

v. counsel to Wilmington Savings Fund Society, FSB, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vi. counsel to Wilmington Savings Fund Society, FSB, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vii. counsel to Wilmington Savings Fund Society, FSB, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

viii. Counsel to the AR Facility Agent, Holland & Knight, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq. (Samuel.Pinkston@hklaw.com)); and

ix. the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), 844 N King St., Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.).

5. Any objection not timely filed and served in the manner set forth in this Order may, in the Court's discretion, not be considered and may be overruled.

6. Notice of the Combined Hearing as proposed in the Motion and the form of notice annexed hereto as **Exhibit 1** shall be deemed good and sufficient notice of the Combined Hearing and no further notice need be given; *provided, however,* that any provision of Bankruptcy Rule 3017(d) requiring the Debtors to distribute the Disclosure Statement and the Prepackaged Plan to parties not entitled to vote, whether because they are unimpaired or because they are deemed to reject the Prepackaged Plan, or any parties in interest other than as prescribed in this Order, shall be waived; *provided further, however,* the Disclosure Statement and Prepackaged Plan shall remain posted in PDF format to the following page at www.kccllc.net/skillsoft and shall be provided in either electronic or paper form to any parties in interest upon written request to the Debtors. The Debtors shall also serve a copy of the Combined Notice on all known creditors, interest holders, and interested parties.

7. Service of the Combined Notice as set forth in the Motion and herein is sufficient notice of the Petition Date, the Combined Hearing, the Objection Deadline, the procedures for objecting to the adequacy of the Disclosure Statement and to confirmation of the Prepackaged Plan, and the procedures for objecting to the Debtors' assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan.

8. To the extent that section 1125(b) of the Bankruptcy Code requires the Debtors' prepetition solicitation of acceptances for the Prepackaged Plan to be pursuant to an approved disclosure statement in order to continue on a postpetition basis, the Court conditionally approves the Disclosure Statement having adequate information as required by section 1125 of the Bankruptcy Code without prejudice to any party in interest objecting to the Disclosure Statement at the Combined Hearing.

9. The Debtors, in their discretion, are authorized pursuant to Bankruptcy Rule 2002(l) to give supplemental publication notice of the Combined Hearing, or shortened version thereof, by publication in a newspaper or newspapers designated by the Debtors in their sole discretion and on a date no less than twenty-eight (28) days prior to the Combined Hearing.

10. Any objection to the assumption or rejection of executory contracts and unexpired leases must (a) be in writing; (b) conform to the applicable Bankruptcy Rules and Local Rules, (c) set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof; (d) be filed with the Bankruptcy Court by the Objection Deadline, together with proof of service, and (e) served upon the Notice Parties.

11. The objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan are approved, as set forth in the Combined Notice.

12. The time within which the Debtors shall file the Schedules and Statements is extended through and including August 7, 2020 without prejudice to the Debtors' right to seek further extensions of the time within which to file the Schedules and Statements or to seek additional relief from this Court regarding the filing of, or waiver of the requirement to file, the Schedules and Statements.

13. The requirement that the Debtors file the Schedules and Statements is permanently waived effective upon the date of confirmation of the Prepackaged Plan, provided confirmation occurs on or before the SOAL/SOFA Deadline.

14. The U.S. Trustee shall not be required to schedule a meeting of creditors and equity holders pursuant to Bankruptcy Code section 341(a) and (b), unless the Prepackaged Plan is not confirmed in these chapter 11 cases on or before the SOAL/SOFA Deadline.

15. Notwithstanding anything to the contrary herein or in the confirmation schedule set forth in the Motion, any holder of Claims in Class 3 and/or Class 4 that is a Consenting Creditor may revoke its vote at any time following the termination of the Restructuring Support Agreement with respect to such Consenting Creditor. Upon such revocation, such Consenting Creditor shall be entitled to submit a replacement vote so as to be received by KCC no later than 5:00 p.m. (prevailing Eastern Time) on the date that is seven (7) days following such revocation.

16. The Debtors are authorized to take all steps necessary or appropriate to carry out the relief granted pursuant to this Order in accordance with the Motion.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Combined Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

NOTICE OF (I) COMMENCEMENT OF CHAPTER 11 CASES, (II) COMBINED HEARING ON DISCLOSURE STATEMENT, CONFIRMATION OF JOINT PREPACKAGED CHAPTER 11 PLAN, AND RELATED MATTERS, AND (III) OBJECTION DEADLINES, AND SUMMARY OF DEBTORS' JOINT PREPACKAGED CHAPTER 11 PLAN

NOTICE IS HEREBY GIVEN as follows:

1. On June 14, 2020 (the "**Petition Date**") Skillsoft Corp. and its affiliated debtors, as debtors and debtors in possession (collectively, the "**Debtors**"), each commenced a case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

2. On the Petition Date, the Debtors filed a "prepackaged" plan of reorganization (the "**Prepackaged Plan**") and a proposed disclosure statement (the "**Disclosure Statement**") pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Copies of the Prepackaged Plan and the Disclosure Statement may be obtained free of charge by visiting the website maintained by the Debtors' voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), at www.kccllc.net/skillsoft. Copies of the Prepackaged Plan and Disclosure Statement may also be obtained by calling the Voting Agent at 877-709-4752 (domestic hotline) 424-236-7232 (international hotline) or emailing the Voting Agent at skillsoftinfo@kccllc.com.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Information Regarding Prepackaged Plan

3. On June 14, 2020, the Debtors commenced solicitation of votes to accept the Prepackaged Plan from the holders of Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) of record as of June 12, 2020. Only holders of Claims in Class 3 and Class 4 are entitled to vote to accept or reject the Prepackaged Plan. All other classes of claims were either deemed to accept or reject the Prepackaged Plan and, therefore, are not entitled to vote. **The deadline for the submission of votes to accept or reject the Prepackaged Plan is June 26, 2020 at 5:00 p.m. (Prevailing Eastern Time).**

4. The Debtors are proposing a restructuring that, pursuant to the Prepackaged Plan, will provide substantial benefits to the Debtors and all of their stakeholders. Upon its full implementation, the Prepackaged Plan will reduce the Debtors' balance sheet liabilities from approximately $2.1 billion in prepetition funded debt down to approximately $585 million in funded debt. In addition to significantly de-levering the Debtors' balance sheet, the Debtors will emerge from chapter 11 with access to a new working capital facility that will provide sufficient liquidity to allow the Debtors to continue funding business operations. The restructuring will allow the Debtors' management team to focus on operational performance and value creation, execute on growth initiatives, and continue to serve as an international leader and innovator in the corporate learning market.

5. A combined hearing to consider the adequacy of the Disclosure Statement and any objections thereto and to consider confirmation of the Prepackaged Plan and any objections thereto will be held before the Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801, **on July 24, 2020 at 10:30 a.m. (Prevailing Eastern Time)** (the "**Combined Hearing**"). The Combined Hearing may be adjourned from time to time without further notice other than by filing a notice of the Bankruptcy Court's docket indicating such adjournment and/or announcement of the adjournment date or dates at the Combined Hearing. The adjourned dates will be available on the electronic case filing docket and the Voting Agent's website www.kccllc.net/skillsoft.

6. The deadline for filing objections to the adequacy of the Disclosure Statement or confirmation of the Plan is **July 17, 2020, at 4:00 p.m. (Prevailing Eastern Time)** (the "**Objection Deadline**"). Any objections to the Disclosure Statement and/or the Prepackaged Plan must be: (i) in writing, (ii) filed with the Clerk of the Court together with proof of service thereof, (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the Debtors' estates or property of the Debtors; and (iv) state the legal and factual basis for such objection, and (v) conform to the applicable Bankruptcy Rules and the Local Rules.

7. In addition to being filed with the Clerk of the Court, any such objections should be served upon the following parties in accordance with the Local Rules:

Debtors
Skillsoft Corporation
300 Innovative Way, Suite 201
Nashua, New Hampshire, 03062
Telephone: (866) 757-73177
Attn: Greg Porto
Email: greg.porto@skillsoft.com

Office of the U.S. Trustee
Office of the U.S. Trustee for
the District of Delaware
844 King Street
Suite 2207, Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy, Esq.
Email: jane.m.leamy@usdoj.gov

Proposed Counsel to the Debtors
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New York, New York 10153
Attn: Gary T. Holtzer, Esq.
Robert J. Lemons, Esq.
Katherine Theresa Lewis, Esq.
Email: gary.holtzer@weil.com
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Proposed Co-Counsel to the Debtors
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Amanda R. Steele, Esq.
Christopher M. De Lillo, Esq.
Email: collins@rlf.com
steele@rlf.com
delillo@rlf.com

Counsel to the First Lien Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

Counsel to the Ad Hoc First Lien Group
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Attn: Scott J. Greenberg, Esq.
Steven A. Domanowski, Esq.
Christina M. Brown, Esq.
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Counsel to the Ad Hoc Crossholder Group
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Attn: Evan R. Fleck, Esq.
Benjamin M. Schak, Esq.
Sarah Levin, Esq.
Email: efleck@milbank.com
bschak@milbank.com

Counsel to the DIP Agent
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New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

slevin@milbank.com

UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AT THE COMBINED HEARING.

Notice of Assumption of Executory Contracts and Unexpired Leases of Debtors and Related Procedures

8. Please take notice that, in accordance with Section 8.1 of the Plan and sections 365 and 1123 of the Bankruptcy Code, all Executory Contracts and Unexpired Leases shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code (such contracts and leases, the "**Assumed Contracts**"), unless such Executory Contract and Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List.

9. Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default (a "**Cure Amount**") shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtors or Reorganized Debtors, as applicable, upon assumption thereof. If you believe that any Cure Amounts are due by the Debtors in connection with the assumption of your contract or unexpired lease, you should assert such Cure Amounts against the Debtors in the ordinary course of business.

10. To the extent that you object to the assumption of an Assumed Contract on any basis, including the Debtors' satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code to provide adequate assurance of future performance under an Assumed Contract, you must (a) file with the Bankruptcy Court a written objection (the "**Objection**") no later than the Objection Deadline that complies with the Bankruptcy Rules and the Local Rules and sets forth (i) the basis for such objection and specific grounds therefor, and (ii) the name and contact information of the person authorized to resolve such objection, and (b) serve the same on the parties listed above.

11. If no Objection is timely filed with respect to an Assumed Contract, (a) you shall be deemed to have assented to (i) the assumption of such Assumed Contract, (ii) the effective date of such assumption, and (iii) the satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code of the Debtors to provide adequate assurance of future performance under such Assumed Contract, and (b) you shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or the adequate assurance of future performance contemplated herein.

12. The Debtors request that, before filing an Objection, you contact the Debtors prior to the Objection Deadline to attempt to resolve such dispute consensually. The

Debtors' contact for such matters is Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), Robert J. Lemons, Esq. (robert.lemons@weil.com), and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and Richards, Layton & Finger, P.A., 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amada R. Steele, Esq. (steele@rlf.com) and Christopher M. De Lillo, Esq. (delillo@rlf.com)). If such dispute cannot be resolved consensually prior to the Objection Deadline (as the same may be extended by agreement of the Debtors), you must file and serve an Objection as set forth herein to preserve your right to object.

13. If a timely Objection is filed and served in accordance with this notice pertaining to assumption of an Assumed Contract, and cannot be otherwise resolved by the parties pursuant to Section 8.2 of the Prepackaged Plan, the Bankruptcy Court may hear such Objection at a date set by the Bankruptcy Court.

Summary of the Prepackaged Plan

14. Solicitation of votes on the Prepackaged Plan commenced prior to the Petition Date. The following chart summarizes the treatment provided by the Prepackaged Plan to each class of Claims and Interests:

Class	Claim or Equity Interest	Treatment	Impaired or Unimpaired	Entitlement to Vote on the Plan	Approx. Percentage Recovery[2]
Class 1	Other Priority Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) such other treatment sufficient to render such holder's Allowed Other Priority Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 2	Other Secured Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%

[2] The values set forth under Approximate Percentage Recovery are based on the midpoint of the range of reorganized equity value of the Debtors as described in the Valuation Analysis set forth in this Disclosure Statement.

		treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) reinstatement or such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.			
Class 3	First Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed First Lien Debt Claims, the holders of Allowed First Lien Debt Claims (or the permitted assigns or designees of such holders) shall receive their Pro Rata share of: (i) New Second Out Term Loans; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans.	Impaired	Yes	Estimated Percentage Recovery: 71%
Class 4	Second Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed Second Lien Debt Claims, the holders of Allowed Second Lien Debt Claims shall receive their Pro Rata share of: (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants.	Impaired	Yes	Estimated Percentage Recovery: 3%[3]
Class 5	General Unsecured Claims	The legal, equitable, and contractual rights of the holders of Allowed General Unsecured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on and after the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall continue to pay or dispute each General Unsecured Claim in the ordinary course of business as if the Chapter 11 Cases had never been commenced.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 6	Subordinated Claims	On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 7	Intercompany Claims	On the Effective Date, all Intercompany Claims shall be reinstated, cancelled, reduced, transferred, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

[3] Estimated percentage recovery excludes value attributable to warrants.

Class 8	Existing Parent Equity Interests	On the Effective Date, the entire share capital of Parent shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps. Holders of Existing Parent Equity Interests shall receive no distribution under this Plan.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 9	Other Equity Interests	On the Effective Date, Other Equity Interests shall be cancelled, released, and extinguished and shall be of no further force and effect.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 10	Intercompany Interests	On the Effective Date, all Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

Non-Voting Status of Holders of Certain Claims and Interests

15. As set forth above, certain holders of Claims and Interests are **not** entitled to vote on the Prepackaged Plan. As a result, such parties did not receive any ballots and other related solicitation materials to vote on the Prepackaged Plan. The holders of Claims and Interests in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) are unimpaired under the Prepackaged Plan, and therefore, are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) of the Bankruptcy Code. The holders of Claims and Interests in Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests) are not entitled to a recovery under the Prepackaged Plan, and therefore, are deemed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. The holders of Claims and Interests in Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests) are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) or presumed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. Finally, parties to certain of the Debtors' executory contracts and unexpired leases may not have Claims pending the disposition of their contracts or leases by assumption or rejection under the Prepackaged Plan. Such parties nevertheless are being provided with this Combined Hearing Notice, and will be separately notified of the projected disposition of their contracts and/or lease. Upon request, the Voting Agent will provide you, free of charge, with copies of the Prepackaged Plan, the Disclosure Statement, and the Combined Hearing Notice.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS IN THE PREPACKAGED PLAN

PLEASE BE ADVISED THAT THE PREPACKAGED PLAN CONTAINS CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, INCLUDING:

Section 10.5 ***Injunction Against Interference with Plan***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees,

agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

Section 10.6 *Plan Injunction*

(a) Except as otherwise provided in the Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan and the Plan Documents.

(b) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth in Section 10.6 of the Plan.

Section 10.7 *Releases*

(a) **Releases by Debtors. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities**

whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

Section 10.8 *Exculpation*

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, this Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Section 10.9 *Injunction Related to Releases and Exculpation.*

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to the Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in the Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons

in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such.

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

Section 341(a) Meeting

16. A meeting of creditors pursuant to section 341(a) of the Bankruptcy Code (the "**Section 341(a) Meeting**") has been deferred. **The Section 341(a) Meeting will not be convened if the Plan is confirmed by August 7, 2020.** If the Section 341(a) Meeting will be convened, the Debtors will file, serve on the parties on whom it served this notice and any other parties entitled to notice pursuant to the Bankruptcy Rules, and post on the website at www.kccllc.net/skillsoft not less than twenty-one (21) days before the date scheduled for such meeting, a notice of, among other things, the date, time, and place of the Section 341(a) Meeting. The meeting may be adjourned or continued from time to time by notice at the meeting, without further notice to creditors.

Dated: Wilmington, Delaware
_____, 2020

BY ORDER OF THE COURT

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (pro hac vice admission pending)
Robert J. Lemons (pro hac vice admission pending)
Katherine Theresa Lewis (pro hac vice admission pending)
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Proposed Counsel for the Debtors and Debtors in Possession

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Schedule "M"

Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief

(See attached)

Docket #0083 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 34**

ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, for entry of an order (i) authorizing, but not directing, the Debtors to (a) enter into the Exclusivity Letter with the Interested Party, and (b) perform their obligations thereunder, including paying the Upfront Payment Amount on the terms and conditions in the Exclusivity Letter, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to those terms in the Motion.

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§§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized, but not directed, to enter into the Exclusivity Letter with the Interested Party and to perform their obligations thereunder, including paying the Upfront Payment Amount subject to the terms and conditions of the Exclusivity Letter.

3. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

4. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

5. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "N"

Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter

(See attached)

Docket #0084 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 36**

ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL AND REDACT CERTAIN IDENTITY INFORMATION IN THE MOTION TO ENTER INTO EXCLUSIVITY LETTER

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Exclusivity Letter Motion containing the Commercial Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file the Exclusivity Letter Motion under seal and to redact the Commercial Information in the publicly-filed versions of the Exclusivity Letter Motion. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, absent further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide the un-redacted version of the Exclusivity Letter Motion to the Court and on a confidential, professional eyes' only basis to: (i) the U.S. Trustee; (ii) counsel to any statutory committee appointed in these

chapter 11 cases; (iii) counsel to the Ad Hoc First Lien Group; and (iv) counsel to the Ad Hoc Crossholder Group.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Exclusivity Letter Motion, other than the Court or the U.S. Trustee, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Exclusivity Letter Motion, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Exclusivity Letter Motion or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "O"

Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal

(See attached)

Docket #0087 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– 11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 32**

ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018, AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE THE PROPOSED DEBTOR-IN-POSSESSION FINANCING FEE LETTERS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Fee Letters, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

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and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1, to file those certain portions of the Fee Letters containing Commercial Information under seal and to redact such Commercial Information in the Fee Letters. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Fee Letters to the Court and shall provide an un-redacted version of the Fee Letters to the Receiving Parties on a confidential, "professionals' eyes only" basis.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Fee Letters, other than the Court or the Office of the United States Trustee for the District of Delaware, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Fee Letters, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Fee Letters or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "P"

Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 8**

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact (a) certain

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

portions of their Creditor Matrix containing the Commercial Information and/or the Personal Information and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents. The Commercial Information and the Personal Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other

than as provided in Paragraph 3 of this Interim Order, without further order of this Court; *provided,* that any customer name and address that is otherwise made publicly available in connection with a pleading in this Court or on the Company's website shall not be deemed Commercial Information.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Sealed Documents on a confidential basis to the Court, the U.S. Trustee, and counsel to any statutory committee appointed in these chapter 11 cases.

4. The Debtors and any party authorized to receive copies of the un-redacted Sealed Documents and the Commercial Information and the Personal Information contained therein pursuant to this Interim Order shall be authorized and directed, subject to Local Rule 9018-1(d) and (e), to (a) redact specific references to the Commercial Information and the Personal Information from pleadings and other documents filed on the public docket maintained in these chapter 11 cases, and (b) not use or refer to any Commercial Information and Personal Information in any hearing without first consulting with the Debtors and the Court as to how to make use of such Commercial Information and Personal Information at the hearing while maintaining its confidentiality; *provided, however,* that nothing in this Interim Order shall authorize the Debtors or any other party to seal or redact information in any retention application filed in these chapter 11 cases, absent further order of the Court.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personal Information is sealed or redacted pursuant to this Interim Order or any final order on the Motion. Service of all documents and notices upon individuals whose Personal Information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service. The Debtors shall

provide the Personal Information to any party in interest that files a motion that indicates the reason such information is needed and that, after notice and a hearing, is granted by the Court.

6. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing and filed with the Court by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)); and (ii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (christina.brown@gibsondunn.com)), (iii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iv) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)).

7. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Interim Order.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 17th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "Q"

Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network

(See attached)

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS

INTRODUCTION

A. The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings") by enhancing coordination and cooperation amongst courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.

B. In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.

C. In particular, these Guidelines aim to promote:

(i) the efficient and timely coordination and administration of Parallel Proceedings;

(ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders' interests are respected;

(iii) the identification, preservation, and maximisation of the value of the debtor's assets, including the debtor's business;

(iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors, and the number of jurisdictions involved in Parallel Proceedings;

(v) the sharing of information in order to reduce costs; and

(vi) the avoidance or minimisation of litigation, costs, and inconvenience to the parties[1] in Parallel Proceedings.

D. These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit[2].

E. These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.

F. Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to facilitate such implementation by a protocol or order derived from these Guidelines, and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

[1] The term "parties" when used in these Guidelines shall be interpreted broadly.

[2] Possible modalities for the implementation of these Guidelines include practice directions and commercial guides.

ADOPTION & INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings; and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, "administrator" includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in-possession in a reorganisation or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order[3], following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

(i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;

(ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;

(iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction; or

(iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the court or before the other court or a waiver by any of the parties of any of their substantive rights and claims.

Guideline 6: In the interpretation of these Guidelines or any protocol or order under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

[3] In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply.

COMMUNICATION BETWEEN COURTS

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

(i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(ii) Directing counsel to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(iii) Participating in two-way communications with the other court, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, unless otherwise directed by any court involved in the communications whether on an *ex parte* basis or otherwise, or permitted by a protocol, the following shall apply:

(i) In the normal case, parties may be present.

(ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications and the communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.

(iii) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and subject to such directions as to confidentiality as any court may consider appropriate.

(iv) The time and place for communications between the courts shall be as directed by the courts. Personnel other than judges in each court may communicate with each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable in the court.

APPEARANCE IN COURT

Guideline 10: A court may authorise a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorise a party to a foreign proceeding, or an appropriate person, to appear and be heard by it without thereby becoming subject to its jurisdiction.

CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognise and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol or order made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

(i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.

(ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.

(iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.

(iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.

(v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.

(vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.

(vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.

TAB 2

Affidavit of John Frederick dated June 17, 2020

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AFFIDAVIT OF JOHN FREDERICK
(Affirmed JUNE 17, 2020)

I, John Frederick, of Fallston, Maryland, United States, **AFFIRM AND SAY**:

1. I am the Chief Administrative Officer and a member of the board of directors of Debtor Skillsoft Corporation, a corporation duly incorporated under the laws of Delaware ("**Skillsoft**" and, together with Debtor Pointwell Limited and the direct and indirect subsidiaries of Pointwell Limited, the "**Company**").

2. I have personal knowledge of the matters to which I depose in this affidavit, except where such matters are stated to be based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe such information to be true.

3. Skillsoft Canada, Ltd. ("**Skillsoft Canada**") has been appointed by the United States Bankruptcy Court for the District of Delaware (the "**US Court**") to act as the foreign representative for itself, as well as for Skillsoft, Amber Holding Inc., SumTotal Systems LLC, MindLeaders, Inc., Accero, Inc., CyberShift Holdings, Inc., CyberShift, Inc. (U.S.), Pointwell Limited, SSI Investments I Limited, SSI Investments II Limited, SSI Investments III Limited, Skillsoft Limited, Skillsoft Ireland Limited, ThirdForce Group Limited and Skillsoft U.K. Limited (collectively, the "**Chapter 11 Debtors**" and each, a "**Chapter 11 Debtor**").

4. On June 14, 2020 (the "**Petition Date**"), each of the Chapter 11 Debtors commenced a case (the "**Chapter 11 Cases**") by filing voluntary petitions (the "**Petitions**") for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the US Court.

5. I swear this affidavit in support of the application by Skillsoft Canada, in its capacity as the foreign representative of the Chapter 11 Debtors, under Part IV of the *Companies' Creditors Arrangement Act,* RSC 1985, c C-36, as amended (the "**CCAA**") seeking recognition of the Chapter 11 Cases as a "foreign main proceeding" under the CCAA and various supplemental relief in respect of the Chapter 11 Debtors, including:

(a) declaring that Skillsoft Canada is a "foreign representative" as defined in s. 45 of the CCAA in respect of the Chapter 11 Cases and is entitled to bring this Application pursuant to s. 46 of the CCAA;

(b) recognizing and giving full force and effect in all provinces and territories of Canada to certain First Day Orders (as defined below) made in the Chapter 11 Cases, including the Interim DIP Order (as defined below);

(c) granting a broad stay of proceedings in Canada in respect of the Chapter 11 Debtors;

(d) granting the Administration Charge and the DIP Lenders' Charge (each as defined below) on the property of the Chapter 11 Debtors in Canada; and

(e) appointing Richter Advisory Group Inc. as the information officer (the "**Information Officer**") in connection with these proceedings;

the whole substantially in the form of the draft Initial Recognition Order (Foreign Main Proceeding) (the "**Initial Recognition Order**") and the draft Supplemental Order (Foreign Main Proceeding) (the "**Supplemental Order**") attached hereto as **Exhibit "A"** and **Exhibit "B"**, respectively.

6. As of the date hereof, other than the present proceedings, there are no other foreign main proceedings or recognition proceedings in respect of the Chapter 11 Debtors.

A. BACKGROUND

7. A more thorough review of the Company's business, its corporate structure, and its financial challenges can be found in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**Frederick Declaration**"), the Declaration of Christopher A. Wilson in support of the Interim DIP Motion (as defined below) (the "**Wilson Declaration**"), and the *Supplemental Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**Supplemental Frederick Declaration**"), which provide an overview of and support for the relief sought on the first day motions (the "**First Day Motions**") filed by the Chapter 11 Debtors contemporaneously with or shortly following the Petitions in the Chapter 11 Cases. A copy of the Frederick Declaration, the Wilson Declaration and the Supplemental Frederick Declaration are attached hereto as **Exhibit "C"**, **Exhibit "D"** and **Exhibit "E"**, respectively.

i. Overview of the Business[1]

8. The Company is a learning and talent management enterprise software company that develops and provides learning management system software and learning content assets, serving thousands of organizations across the globe, including approximately sixty-five percent (65%) of the Fortune 500.[2]

9. The Company operates in a large and growing market that is believed to be approximately USD $9.5 billion in the United States alone. To address this market, the Company has developed and actively markets three award-winning systems as well as learning content that support learning, performance, and success for its corporate customers and their users:

(a) Skillsoft, a business that designs and updates an extensive database of learning content;

(b) Percipio, an intelligent learning experience platform; and

(c) SumTotal, a learning and talent development technology suite.

10. The Company was founded in 1989 as a private Irish Company. Through, *inter alia*, a series of transactions between 1989 and 2015, the Company became a global leader and innovator in the corporate learning market, providing a single solution to meet all of the learning requirements of organizations across the globe.

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[1] Capitalized terms used but not otherwise defined in this Affidavit shall have the meaning ascribed to such terms in the Frederick Declaration.

[2] The Fortune 500 is an independent directory, produced by Fortune Media IP Limited, of companies that (1) are incorporated in the U.S., (2) operate in the U.S., and (3) file financial statements with government agencies, ranked by total revenues for their respective fiscal years. For more information, please visit fortune.com/fortune500 (last visited June 12, 2020).

ii. Overview of the Operations

11. The Company's North American headquarters are located in Nashua, New Hampshire (the "**Company's Headquarters**"). The Company operates in eleven (11) countries and has a total of approximately 2,200 employees worldwide.

12. As a global enterprise, the Company, among other things, (i) conducts business in numerous foreign jurisdictions, including Canada, (ii) includes entities which are incorporated under the laws of various foreign jurisdictions, (iii) has many key contracts that are governed by the laws of foreign jurisdictions, (iv) has many foreign creditors, and (v) has a global customer base.

13. The Company's operations are mainly carried out in the United States, where the Company's main business and corporate decisions are taken.

14. The Company utilizes shared services across the globe. Shared services include, among other things, functions such as human resources, finance, legal affairs, information technology, marketing, sales operations, and business applications. Shared services are predominantly conducted from:

(a) the Company's Headquarters, where approximately 45% of the shared services are conducted;

(b) Hyderabad, India, where approximately 15% of the shared services are conducted; and

(c) Fredericton, New Brunswick, where approximately 10% of the shared services are conducted.

15. The Company also uses an integrated, centralized cash management system operated by the treasury team in the United States to collect, transfer and disburse funds generated by the Company (the **"Cash Management System"**).

16. The Cash Management System (a) controls corporate funds; (b) ensures the maximum availability of funds when and where necessary; (c) reduces costs and administrative expenses by facilitating the movement of funds; and (d) allows the Company to operate at maximum efficiency.

17. In addition, almost half of the human resources employees, including the Company's Chief People Officer, are based at the Company's Headquarters.

18. Moreover, the majority of the Company's assets are located in the United States.

iii. **Corporate and Capital Structure**

19. An abridged corporate organizational chart of the Company is set forth as **Exhibit "F"** attached hereto. As depicted on **Exhibit "F"**, the Company is indirectly controlled by entities controlled by Charterhouse Evergreen LP, which is managed by its general partner Charterhouse General Partners (IX) Limited through certain non-debtor affiliates. The Chapter 11 Debtors form part of the Company's corporate group and are incorporated either in the United States, Canada, Ireland or in the United Kingdom.

20. As of the Petition Date, the Company's funded debt totaled approximately USD $2.1 billion, which is made up of:

(a) a first lien term loan facility (the "**First Lien Term Loan Facility**") in an original principal amount of USD $900 million and an incremental facility in an original principal amount of USD $465 million incurred on September 30, 2014, and under which approximately USD $1.29 billion of principal amount is outstanding;

(b) a first lien revolving credit facility (the "**First Lien Revolving Credit Facility**") in an aggregate principal amount not to exceed USD $80 million, under which approximately USD $79.5 million of revolving loans are outstanding and letters of credit with an aggregate face amount of approximately USD $500,000 have been issued;

(c) a second lien term loan facility (the "**Second Lien Term Loan Facility**") in an original principal amount of USD $485 million and an incremental facility in an original payment amount of USD $185 million incurred on September 30, 2014, and under which approximately USD $670 million of principal amount is outstanding; and

(d) an up to USD $90 million accounts receivables-backed facility borrowed by non-debtor Skillsoft Receivables Financing LLC, under which approximately USD $68 million is outstanding.

iv. **Financial Difficulties**

21. The reasons for the Company's financial difficulties, as well as the ultimate reasons for initiating insolvency proceedings in the United States, are described in greater detail in the Frederick Declaration.

22. Generally, the human capital management and enterprise e-learning markets have become highly competitive and the Company has lost market share to certain of its competitors in recent years, contributing to a decline in revenue.

23. In late 2018 and throughout early 2019, the Company conducted a comprehensive review of its business model and, in April 2019, launched a transformation plan aimed at stabilizing the business (the "**Transformation Plan**"). As part of the Transformation Plan, the Company took a number of steps to reinvigorate its business model and achieve success in the market, such as:

(a) implementing a revised organizational design to address specialization, focusing on four specific customer markets (Technology and Development, Business Skills, Compliance, and Talent Development);

(b) focusing on "prosumers" – the integration of professionals and consumers at their client organizations – by marketing directly to buyers that are closer to the ultimate end users of its products, rather than by targeting sales directly to top

organization executives, in order to address changing buying patterns and the influence of users on the purchasing process;

(c) simplifying its offering structure and focused its sales teams on marketing a smaller suite of its most desirable products to market leaders;

(d) conducting extensive evaluations of its technologies and delivery platforms, including by surveying its customers' preferences among several different platforms and software toolings offered by the Company; and

(e) migrating approximately fifty percent (50%) of its customers from its legacy Skillport platform to its recently developed intelligent learning experience platform, Percipio, which platform has been significantly enhanced since its introduction by the Company in late 2016, in an effort to increase renewal rates.

24. As of the date hereof, the Transformation Plan has already demonstrated successful results.[3] However, notwithstanding these positive results, the Company remains over-levered, with looming debt maturities in 2020 and 2021.

25. Furthermore, like many others, the Company is facing adverse near-term business consequences from the macroeconomic effects of the COVID-19 pandemic. While the Company has been successful in operating under its business continuity plan and has kept its operations largely uninterrupted in the midst of this global crisis, COVID-19 has or may impact several of the Company's key business initiatives. The Company and its advisors also project that COVID-19 may result in decreased order intake and delayed customer collections in the fiscal year 2021, which could decrease the Company's operating liquidity significantly.

[3] The Company has worked diligently with its advisors to reevaluate the accuracy and applicability of its projections in light of drastic and unpredictable market changes stemming from the COVID-19 pandemic and to adjust its projections accordingly.

B. THE COMPANY'S CONNECTION WITH CANADA

i. Overview

26. Among the Chapter 11 Debtors is Skillsoft Canada, a company incorporated pursuant to the *Business Corporations Act* (New Brunswick), with a registered office in Fredericton, New Brunswick. A copy of Skillsoft Canada's information card from the New Brunswick Corporate Affairs Registry is attached hereto as **Exhibit "G"**.

27. Skillsoft Canada provides cloud-based learning solutions and talent management solutions for customers ranging from global enterprises, government, and education to mid-sized and small businesses. To support the Company's primary business, Skillsoft Canada also operates a research and development function.

28. Skillsoft Canada currently employs a total of 259 employees, with 229 employees located in Fredericton, New Brunswick, and an additional 30 employees working remotely. These employees are non-unionized and Skillsoft Canada does not sponsor any pension plans for its employees.

ii. Assets and Liabilities

29. As at March 31, 2020, the assets of Skillsoft Canada were comprised of, among other things:

(a) approximately USD $1.4 million in cash and cash equivalents;

(b) approximately USD $5.2 million in accounts receivable;

(c) approximately USD $1.4 million in prepaid expenses;

(d) intellectual property;

(e) approximately USD $500,000 in property and equipment;

(f) negative goodwill of approximately USD $865,000; and

(g) approximately USD $3 million in intercompany liabilities included with the assets.

30. As at March 31, 2020, Skillsoft Canada had approximately USD $9 million in liabilities, comprised of, among other things:

(a) approximately USD $27,000 owed to trade creditors;

(b) approximately USD $760,000 owed in accrued compensation; and

(c) approximately USD $8.4 million owed in deferred revenue.

31. In addition to the above, Skillsoft Canada is a borrower and a guarantor under certain pre-filing credit facilities, which are described in greater detail below.

iii. **Pre-filing Credit Facilities**

a. First Lien Debt

32. On April 28, 2014, a certain *First Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**First Lien Credit Agreement**") was entered into among certain of the Chapter 11 Debtors (including Skillsoft Canada) and certain other entities of the Company's corporate group, as borrowers (collectively, the "**First Lien Borrowers**"), various lenders from time to time party thereto (collectively, the "**First Lien Lenders**"), and Wilmington Savings Fund Society, FSB ("**WSFS**") (as successor to Barclays Bank PLC ("**Barclays**")), as administrative agent and collateral agent, pursuant to which the First Lien Lenders agreed to provide the First Lien Borrowers with the First Lien Term Loan Facility and the First Lien Revolving Credit Facility.

33. As of the Petition Date, an aggregate principal amount of more than USD $1.3 billion was outstanding under the First Lien Credit Agreement (the "**First Lien Debt**").

34. The First Lien Borrowers' obligations under the First Lien Credit Agreement are guaranteed by certain subsidiaries of the Company, the First Lien Borrowers (including Skillsoft

Canada), and the non-debtor Evergreen Skills Intermediate Lux S.à r.l. (collectively, the "**First Lien Guarantors**") and are secured by a first-priority security interest in substantially all of the assets of the First Lien Borrowers and the First Lien Guarantors, subject to certain limitations and exclusions.

b. Second Lien Debt

35. On April 28, 2014, a certain *Second Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Second Lien Credit Agreement**") was entered into among certain of the Chapter 11 Debtors (excluding Skillsoft Canada), among others, as borrowers (collectively, the "**Second Lien Borrowers**"), various lenders from time to time party thereto (collectively, the "**Second Lien Lenders**"), and WSFS (as successor to Barclays), as administrative and collateral agent, pursuant to which the Second Lien Lenders agreed to provide to the Second Lien Borrowers the Second Lien Term Loan Facility.

36. The Second Lien Term Loan Facility matures in April 2022. As of the Petition Date, an aggregate principal amount of approximately USD $670 million is outstanding under the Second Lien Credit Agreement (the "**Second Lien Debt**").

37. The Second Lien Borrowers' obligations under the Second Lien Credit Agreement are guaranteed by, among others, Skillsoft Canada. The Second Lien Borrowers' obligations under the Second Lien Credit Agreement are secured by a second-priority security interest in substantially all of the assets of, among others, Skillsoft Canada, subject to certain limitations and exclusions.

c. Intercreditor Agreement

38. The relative contractual rights of the holders of First Lien Debt, on the one hand, and the holders of Second Lien Debt, on the other, are governed by that certain *First Lien/Second Lien*

Intercreditor Agreement, dated as of April 28, 2014 (as amended, supplemented, amended and restated or otherwise modified from time to time, the "**Intercreditor Agreement**"). The Intercreditor Agreement sets out the rights and obligations of holders of First Lien Debt and Second Lien Debt with respect to, among other things, priority of security over collateral, matters of debtor-in-possession financing, the use of cash collateral, and adequate protection.

d. Non-Debtor Obligations

39. On December 20, 2018, the non-debtor Skillsoft Receivables Financing LLC (the "**AR Borrower**") entered into that certain *Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**AR Facility Agreement**" and the facility provided thereunder, the "**Existing AR Facility**") among (i) the AR Borrower, as borrower; (ii) the lenders party thereto (collectively, the "**AR Facility Lenders**"); and (iii) CIT Bank, N.A., as administrative agent, collateral agent, and accounts bank. Pursuant to the AR Facility Agreement, the AR Facility Lenders agreed to provide the AR Borrower with revolving loans, subject to borrowing base availability, comprised of a Class A revolving line of credit up to USD $75 million and a Class B revolving line of credit up to USD $15 million.

40. Certain of the Chapter 11 Debtors, including Skillsoft Canada, are "Originators" under the Existing AR Facility, originating receivables which are then sold to the AR Borrower. The Originators continue to service the receivables sold to the AR Borrower and remit to the AR Borrower the proceeds of such receivables collected. However, none of the Chapter 11 Debtors guarantee the obligations in connection with the Existing AR Facility except in limited circumstances relating to a breach by such Chapter 11 Debtor of certain representations or warranties made in respect of the underlying receivables sold by such Chapter 11 Debtor.

C. THE RESTRUCTURING

i. Pre-Filing Efforts

41. In the months leading up to the commencement of the Chapter 11 Cases and with the goal of stabilizing and improving the Company's business, as well as to allow further time for negotiations among the Company's stakeholders to bear fruit, the Company, with the assistance of its advisors, among other things:

(a) maximized the use of its existing sources of credit in order to increase liquidity and delever its balance sheet;

(b) launched a holistic, competitive marketing process for the sale of the Company's SumTotal business. During this marketing process, the Company and its advisors also responded to and actively engaged with potential third party buyers that expressed interest in a purchase of the whole Company;

(c) proactively engaged its key stakeholders, including (i) an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which collectively holds or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% in value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and together with the Ad Hoc First Lien Group, the "**Creditor Groups**"), which collectively holds or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt; and

(d) entered in forbearance agreements with the Creditor Groups, to negotiate with the latter a comprehensive, consensual restructuring.

42. In the past several weeks, faced with mounting debt service payments and decreased order intake and trade contraction attributable to the COVID-19 pandemic, the Company's liquidity has tightened, and it was close to falling below the minimum liquidity cushion that Company management and advisors have deemed necessary for the Company to continue

operating its business in the ordinary course. These short-term liquidity issues precipitated the commencement of the Chapter 11 Cases.

ii. **Restructuring Support Agreement and Prepackaged Plan**

43. On June 12, 2020, the extensive efforts described above culminated in the execution of a *Restructuring Support Agreement* (as amended from time to time and including all exhibits thereto, the "**RSA**") pursuant to which holders representing approximately 81% in value of the First Lien Debt and approximately 84% in value of the Second Lien Debt (collectively, the "**Consenting Creditors**") have agreed, subject to the terms and conditions of the RSA, to vote in favor of the *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors* (the "**Prepackaged Plan**"), and provide certain additional liquidity to the Chapter 11 Debtors both during the Chapter 11 Cases and upon emergence. A copy of the redacted version of the RSA is attached hereto as **Exhibit "H"**.

44. The terms of the Chapter 11 Debtors' restructuring are reflected in the Prepackaged Plan, a copy of which is attached hereto as **Exhibit "I"**. Upon its full implementation, the Prepackaged Plan will effect a significant deleveraging of the Chapter 11 Debtors' capital structure by reducing its funded debt from approximately $2.1 billion to approximately $585 million upon emergence, thereby substantially reducing the Company's balance sheet liabilities.

45. As set forth in greater detail in the Prepackaged Plan, the Chapter 11 Debtors' restructuring provides that:

(a) each holder of a First Lien Debt Claim will receive its *pro rata* share of (i) $410 million of Second Out Term Loans and (ii) 96% of the Newco Equity (subject to dilution by the Warrants and the Incentive Plans);

(b) each holder of a Second Lien Debt Claim will receive its *pro rata* share of (i) 4% of the Newco Equity; (ii) Tranche A Warrants; and (iii) Tranche B Warrants (in each case subject to dilution by the Incentive Plans);

(c) the Debtors' general unsecured claims will receive payment of their claims in full in the ordinary course; and

(d) existing equity interests in the Parent will be cancelled on the Effective Date.[4]

46. The effect of the Chapter 11 Debtors' restructuring on their capital structure is summarized as follows:

	Status Quo(1)	Pro Forma(1)	
	8/14/20P	*Adj.*	8/14/20P
AR Credit Facility(2)	$63	-	$63
DIP / New First Out Term Loan Facility	-	*$110*	110
Existing 1L Revolver(3)	80	*(80)*	-
Existing 1L Term Loan	1,290	*(1,290)*	-
New Second Out Term Loan Facility	-	*410*	410
Existing 2L Term Loan	670	*(670)*	-
Total Debt	**$2,103**	***($1,519)***	**$583**
Less: Cash			(47)
Net Debt	**$2,103**	***($1,519)***	**$536**
Existing Preferred Equity	2,075	*(2,075)*	-
Net Debt + Preferred Equity	**$4,178**	***($3,594)***	**$536**
PF Common Equity Splits :			
Existing Equity	100.0%	*(100.0%)*	-
Existing 1L Lenders	-	*96.0%*	96.0%
Existing 2L Lenders	-	*4.0%*	4.0%
Total	**100.0%**	**-**	**100.0%**
Liquidity :			
AR Credit Facility			-
DIP / New First Out Term Loan Facility			-
Existing 1L Revolver			-
Available Cash			47
Total Liquidity	**-**	**-**	**$47**
Memo :			
Est. Run-Rate Annual Cash Interest	143	*(97)*	47
Mandatory Amortization(4)	14	*(10)*	4
Est. Total Debt Service	**$157**	***($106)***	**$51**
FY21P Cash EBITDA	111	-	111
Key Credit Metrics			
FCCR(5)	0.6x	*1.1x*	1.8x
Total Leverage	18.9x	*(13.6x)*	5.2x

(1) *8/14/20P balances based on preliminary DIP Budget as of 6/13/20*
(2) *Pro forma 8/14/20P amount reflects expected balance upon finalization of terms*
(3) *Balance excludes outstanding letters of credit with an aggregate face amount of ~$0.5mm*
(4) *Amortization payments under the pro forma capital structure begin on 4/30/21*
(5) *FCCR calculated as (Cash EBITDA – Capex – Estimated Post-Reorg Cash Taxes) / (Cash Interest + Mandatory Amortization)*

[4] Capitalized terms used but not otherwise defined in paragraph 45(a), (b), (c) and (d) of this Affidavit shall have the meaning ascribed to such terms in the Prepackaged Plan.

47. As indicated above, the Chapter 11 Debtors' restructuring is supported by the overwhelming majority of the Chapter 11 Debtors' debtholders. The reduced debt burden and exit financing anticipated under the Prepackaged Plan will provide the Chapter 11 Debtors with sufficient liquidity to continue funding their operations and to make the necessary capital expenditures and investments to ensure that the Company will remain an industry leader in corporate learning. It is not anticipated that the obligations owing to Skillsoft Canada's trade creditors or employees will be affected under the Prepackaged Plan.[5]

iii. **Debtor-in-Possession Financing**

48. Pursuant to that certain *Secured Super-Priority Term Loan Debtor-In-Possession Loan Agreement* to be entered into (as the same may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**" and, together with the schedules and exhibits attached thereto, the Interim DIP Order, the *Final Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief* to be entered by the US Court, subject to its approval, in the Chapter 11 Cases, and all agreements, documents, and instruments delivered or executed in connection therewith (including the Fee Letter (as defined in the DIP Credit Agreement) executed by the Borrower (i.e. Skillsoft) in connection with the DIP Facility (as defined in the DIP Credit Agreement), and other guarantee and security documentation, collectively, the "**DIP Documents**"), certain of the Company's First Lien Lenders (in such

[5] In particular, it is contemplated that trade creditors will continue to be paid in the normal course pursuant to the *Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief* and the *Final Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief*, each referenced below as part of the First Day Orders.

capacity, the "**DIP Lenders**") have agreed to provide a $60 million debtor-in-possession credit facility (the "**DIP Financing**") to provide incremental liquidity to help fund the costs of the Chapter 11 Debtors' restructuring. The DIP Lenders have also agreed to provide the Company with exit financing, which consists of (i) $60 million to be used to fund the outstanding DIP Financing obligations and (ii) $50 million of incremental liquidity to the Company on the Effective Date (as defined in the Prepackaged Plan).

49. In light of the liquidity issues described above, the Chapter 11 Debtors required immediate access to the DIP Financing to ensure they have sufficient working capital to operate their businesses and to administer their estates. The combination of market changes, difficulty integrating the SumTotal asset and struggling to overcome the unsustainable amount of debt the Company incurred in connection with the SumTotal acquisition, has led to an unstable capital structure and a rapid decline of the Company's cash flows, which, if left unaddressed, would have significantly challenged the Chapter 11 Debtors' business operations.

50. Prior to the Petition Date, the Chapter 11 Debtors, in consultation with their professionals, reviewed and analyzed their projected cash needs and prepared an initial analysis of the amount of cash that would be reasonably required to complete the prepackaged Chapter 11 Cases (including these recognition proceedings). Based on this analysis, the Chapter 11 Debtors determined they would be unable to fund their restructuring efforts with cash on hand and would need incremental liquidity in the form of debtor-in-possession financing.

51. The Company, with guidance from its advisors, engaged with the DIP Lenders with a view to obtaining such financing and negotiated the terms of the DIP Financing, which the Company believes meets the Company's liquidity needs at this critical juncture and is on terms that the Company, in the exercise of its business judgment, believes to be acceptable in the circumstances.

52. The DIP Financing is essential to ensure that the Chapter 11 Debtors have the liquidity necessary to, among other things, fund payroll and satisfy their working capital and general corporate purposes. Access to sufficient working capital and liquidity is necessary and vital to ensure the Chapter 11 Debtors' ability to operate their business prudently during the Chapter 11 Cases and the present Canadian recognition proceedings.

53. Absent access to the DIP Financing, even for a limited period of time, the Company will be unable to continue operating its businesses, which will cause irreparable harm to the Chapter 11 Debtors and their stakeholders.

iv. **Negotiations with a Potential Third Party Purchaser**

54. In addition to the above, the Company, with the support of the Consenting Creditors, has entered into an exclusivity agreement with a potential third party purchaser of substantially all of the Company's business and is continuing negotiations with this party regarding a potential Alternative Transaction (as defined in the RSA).

55. In light of the Company's deteriorating liquidity position, immediate need to access the DIP Financing, and the need for the certainty of a fully-agreed reorganization path if the Company does not consummate a transaction with the potential third party purchaser, among other reasons, the Company has commenced the Chapter 11 Cases (with the support of the Consenting Creditors) and is seeking to implement the restructuring contemplated by the RSA.

56. However, if the ongoing negotiations with the third party are ultimately successful, the Company may seek to amend, *inter alia*, the Prepackaged Plan (to the extent it obtains the support of the Consenting Creditors) to reflect the Alternative Transaction prior to the Prepackaged Plan's confirmation hearing before the US Court.

v. **Timeline of the Chapter 11 Debtors' Restructuring**

57. To reap the full benefits of the proposed restructuring, the Chapter 11 Debtors must efficiently progress the Chapter 11 Cases. The Chapter 11 Debtors have agreed under the RSA to use commercially reasonable efforts to meet certain milestones for the restructuring process, including:

(a) confirmation of the Prepackaged Plan by no later than sixty (60) calendar days after the Petition Date; and

(b) the Prepackaged Plan becoming effective no later than eighty (80) days after the Petition Date.

58. To the extent the Chapter 11 Debtors and their creditors believe that a sale of the Company's business would maximize value and increase recoveries to the Chapter 11 Debtors' stakeholders, these milestones may be subject to negotiation and adjustment.

D. CHAPTER 11 CASES

59. Certified copies of the Petitions filed by each of the Chapter 11 Debtors are included in a Compendium of Materials Filed in the Chapter 11 Cases (the "**US Compendium**"), attached hereto as **Exhibit "J",** as follows:

(a) Voluntary Petition of Skillsoft Corporation attached at Tab "A" of the US Compendium;

(b) Voluntary Petition of Amber Holding Inc. attached at Tab "B" of the US Compendium;

(c) Voluntary Petition of SumTotal Systems LLC at Tab "C" of the US Compendium;

(d) Voluntary Petition of MindLeaders, Inc. attached at Tab "D" of the US Compendium;

(e) Voluntary Petition of Accero, Inc. attached at Tab "E" of the US Compendium;

(f) Voluntary Petition of CyberShift Holdings, Inc. attached at Tab "F" of the US Compendium;

(g) Voluntary Petition of CyberShift, Inc. (U.S.) attached at Tab "G" of the US Compendium;

(h) Voluntary Petition of Pointwell Limited attached at Tab "H" of the US Compendium;

(i) Voluntary Petition of SSI Investments I Limited attached at Tab "I" of the US Compendium;

(j) Voluntary Petition of SSI Investments II Limited attached at Tab "J" of the US Compendium;

(k) Voluntary Petition of SSI Investments III Limited attached at Tab "K" of the US Compendium;

(l) Voluntary Petition of Skillsoft Limited attached at Tab "L" of the US Compendium;

(m) Voluntary Petition of Skillsoft Ireland Limited attached at Tab "M" of the US Compendium;

(n) Voluntary Petition of ThirdForce Group Limited attached at Tab "N" of the US Compendium;

(o) Voluntary Petition of Skillsoft U.K. Limited attached at Tab "O" of the US Compendium; and

(p) Voluntary Petition of Skillsoft Canada, Ltd. attached at Tab "P" of the US Compendium.

60. Skillsoft Canada, in its capacity as foreign representative, is seeking recognition for each of the orders made in respect of the First Day Motions (the "**First Day Orders**"). Copies of the First Day Motions (without the draft First Day Orders) and the First Day Orders are included in the US Compendium as set out below:

(a) *Motion of Debtors for Entry of Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* attached at Tab "Q" of the US Compendium;

(b) *Order (I) Directing Joint Administration of Chapter 11 Cases, and (II) Granting Related Relief* attached at Tab "R" of the US Compendium (the **"Joint Administration Order"**). Pursuant to the Joint Administration Order, the US Court ordered the joint administration of the Chapter 11 Cases. The consolidation is of a procedural nature only, such that there will be no substantive consolidation of the Chapter 11 Debtors' estates;

(c) *Application of Debtors Pursuant to 28 U.S.C. § 156(c) for Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date* attached at Tab "S" of the US Compendium;

(d) *Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date* attached at Tab "T" of the US Compendium (the **"Claims Agent Order"**). Pursuant to the Claims Agent Order, Kurtzman Carson and Consultants (the "**Claims Agent**") is fully responsible for the distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Chapter 11 Cases. The mandate of the Claims Agent is purely administrative;

(e) *Motion of Debtors Pursuant to 11 U.S.C. § 105 for Entry of and Order Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541* attached at Tab "U" of the US Compendium;

(f) *Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541* attached at Tab "V" of the US Compendium (the **"Automatic Stay Order"**). The Automatic Stay Order enforced and restated the automatic stay provisions of the Bankruptcy Code and is appropriate and necessary for the Chapter 11 Debtors to continue operations while they pursue their restructuring efforts. The Automatic Stay Order does not purport to create any protections that are not already automatically applicable under the Bankruptcy Code, but merely seeks a "comfort order" embodying specific protections under the Bankruptcy Code that can be shown to parties of interest;

(g) *Motion of Debtors for Entry of an Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached at Tab "W" of the US Compendium;

(h) *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached at Tab "X" of the US Compendium (the "**Foreign Representative Order**"). The Foreign Representative Order authorizes Skillsoft Canada to act as the Foreign Representative of the Chapter 11 Debtors to, among other things, seek recognition of the Chapter 11 Cases in Canada. Pursuant to the Foreign Representative Order, the US Court requested the aid and assistance of the Canadian Court to recognize the Chapter 11 Cases as a "foreign main proceeding" and Skillsoft Canada as a "foreign representative" under the CCAA;

(i) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief* attached at Tab "Y" of the US Compendium;

(j) *Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief* attached at Tab "Z" of the US Compendium (the **"Cash Management Order"**). Pursuant to the Cash Management Order, the Chapter 11 Debtors are authorized to continue to use their existing Cash Management System and bank accounts, honor certain prepetition obligations related thereto, and implement changes to their Cash Management System in the ordinary course of business, as well as other related relief. The Cash Management Order was made on an interim basis and will be subject to a further hearing and final order;

(k) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief* attached at Tab "AA" of the US Compendium;

(l) *Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief* attached at Tab "BB" of the US Compendium (the **"Insurance Order"**). Pursuant to the Insurance Order, the Chapter 11 Debtors are authorized, but not directed, to maintain and renew their insurance policies and programs, including their insurance obligations on a post-petition basis in the ordinary course of business and pay any outstanding pre-petition amounts due in connection with the insurance obligations. The Insurance Order was made on an interim basis and will be subject to a further hearing and final order;

(m) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief* attached at Tab "CC" of the US Compendium;

(n) *Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief* attached at Tab "DD" of the US Compendium (the **"Taxes Order"**). Pursuant to the Taxes Order, the Chapter 11 Debtors are authorized, but not directed, to pay certain taxes, assessments, fees and charges in the ordinary course of business, whether arising prior to, on or after the commencement of the Chapter 11 Cases. The Taxes Order was made on an interim basis and will be subject to a further hearing and final order;

(o) *Motion of Debtors for Entry of Interim and Final Orders (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing,*

or Discontinuing Utility Service, and (IV) Granting Related Relief attached at Tab "EE" of the US Compendium;

(p) *Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Service, and (IV) Granting Related Relief* attached at Tab "FF" of the US Compendium (the **"Utilities Order"**). Pursuant to the Utilities Order, the Chapter 11 Debtors' utility service providers, such as electricity, natural gas, water, sewage, telecommunications, and waste services, are prohibited from altering or discontinuing service, and a procedure for resolving any subsequent requests by the utilities for additional adequate assurance of payment is established. The Utilities Order was made on an interim basis and will be subject to a further hearing and final order;

(q) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief* attached at Tab "GG" of the US Compendium;

(r) *Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief* attached at Tab "HH" of the US Compendium (the **"Trade Claims Order"**). Pursuant to the Trade Claims Order, the Chapter 11 Debtors are authorized, but not directed, to pay in full in their discretion in the ordinary course of business prepetition claims of creditors that provide goods or services to the Chapter 11 Debtors' operations, including critical vendors and trade creditors who, prior to the Petition Date, in the ordinary course of business, delivered goods to the Chapter 11 Debtors within 20 days of the Petition Date, giving rise to administrative expense claims under section 503(b)(9) of the Bankruptcy Code, and ordinary course professionals and all other trade claimants holding non-priority prepetition claims against the Chapter 11 Debtors. The Trade Claims Order was made on an interim basis and will be subject to a further hearing and final order;

(s) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief* attached at Tab "II" of the US Compendium;

(t) *Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief* attached at Tab "JJ" of the US Compendium (the **"Wages Order"**). The Wages Order authorizes the Chapter 11 Debtors to, among other things, pay prepetition wages and other amounts owed to their employees and claims of independent contractors, continue all employee benefit programs and to pay all withholding obligations as such obligations are due. The Wages Order was made on an interim basis and will be subject to a further hearing and final order;

(u) *Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* attached at Tab "KK" of the US Compendium (the "**Interim DIP Motion**"); and

(v) *Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief* attached at Tab "LL" of the US Compendium (the "**Interim DIP Order**"). Pursuant to the Interim DIP Order, which was made on an interim basis and will be subject to a further hearing and final order, the US Court, *inter alia*:

(1) authorized the Chapter 11 Debtors to enter into the DIP Credit Agreement;

(2) authorized Skillsoft, in its capacity as borrower under the DIP Credit Agreement, to obtain the DIP Financing;

(3) authorized the Chapter 11 Debtors to use the DIP Financing, in accordance with the Approved Budget (as defined in the DIP Credit Agreement), to provide working capital for, and for the other general corporate purposes of, the Chapter 11 Debtors, including expenses incurred during the Chapter 11 Cases, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, and Adequate Protection Payments (as defined in the Interim DIP Order) and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented through the Chapter 11 Cases in accordance with the RSA;

(4) authorized each of the Chapter 11 Debtors, including Skillsoft Canada, to guarantee unconditionally, on a joint and several basis, Skillsoft's obligation in connection with the DIP Financing, each in accordance with the terms and conditions set forth in the DIP Credit Agreement and the terms and conditions set forth in the DIP Documents; and

(5) granted to the DIP Agent, for the benefit of the DIP Secured Parties to secure the DIP Obligations (each as defined in the Interim DIP Order), valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on and senior security interests in substantially all of the property of the Chapter 11 Debtors;

(w) *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII)*

Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018 attached at Tab "MM" of the US Compendium;

(x) *Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018* attached at Tab "NN" of the US Compendium (the "**Scheduling Order**"). Pursuant to the Scheduling Order, the US Court approved the (i) scheduling of a combined hearing to approve the Disclosure Statement and Solicitation Procedures, and confirm the Prepackaged Plan; (ii) the objection procedures and deadlines in connection with the Prepackaged Plan and Disclosure Statement; (iii) the objection procedures and deadlines in connection with the Debtors' assumption or rejection of executory contracts and leases; (iv) the notice of the combined hearing, objection deadline, and notice of commencement; and (v) a conditional waiver of the requirement to file statements of financial affairs and schedules of assets and liabilities and the requirement to hold the Section 341 Meeting;

(y) *Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief* attached at Tab "OO" of the US Compendium (the "**Exclusivity Letter Motion**");

(z) *Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including*

Payment of the Upfront Payment Amount, and (II) Granting Related Relief attached at Tab "PP" of the US Compendium (the "**Exclusivity Order**"). Pursuant to the Exclusivity Order, the US Court granted the Debtors request to enter into an exclusivity letter with a potential purchaser of the Chapter 11 Debtors' business and for the Chapter 11 Debtors to perform their obligations under the Exclusivity Letter (as defined in the Exclusivity Order);

(aa) *Motion of Debtors for Entry of an Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information In the Motion to Enter Into Exclusivity Letter* attached at Tab "QQ" of the US Compendium*;*

(bb) *Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter* attached at Tab "RR" of the US Compendium (the "**Sealing and Redaction Order**"). Pursuant to the Sealing and Redaction Order, the US Court authorized the Chapter 11 Debtors to file under seal and to redact certain portions of the Exclusivity Letter Motion containing confidential commercial information;

(cc) *Motion of Debtors pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 for Entry of an Order authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal* attached at Tab "SS" of the US Compendium;

(dd) *Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal* attached at Tab "TT" of the US Compendium (the "**Fee Letter Order**"). Pursuant to the Fee Letter Order, the US Court authorized the Chapter 11 Debtors to file those certain portions of the Fee Letters (as defined in the Fee Letter Order) containing confidential commercial information under seal and to redact such commercial information in the Fee Letters;

(ee) *Motion of Debtors Pursuant to 11 U.S.C. §§ 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 for Entry of Interim and Final Orders Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal (II) the Commercial*

Information and the Personal Information in Future Filings Under Seal attached at Tab "UU" of the US Compendium (the "**Creditor Matrix Motion**"); and

(ff) *Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal* attached at Tab "VV" of the US Compendium (the "**Creditor Matrix Order**"). Pursuant to the Creditor Matrix Order, the Chapter 11 Debtors are authorized, but not directed, to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information (each as defined in the Creditor Matrix Motion) under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents.

E. RELIEF SOUGHT

i. Declaration that Skillsoft Canada is a "foreign representative"

61. Skillsoft Canada seeks a declaration from this Court that Skillsoft Canada is a "foreign representative" as defined in s. 45 of the CCAA in respect of the Chapter 11 Cases and is entitled to bring this Application pursuant to s. 46 of the CCAA.

62. Skillsoft Canada was authorized by the US Court, pursuant to the Foreign Representative Order, to act as a foreign representative in respect of the present proceedings.

ii. Recognition of Foreign Proceedings

63. Skillsoft Canada, in its capacity as foreign representative, seeks recognition of the Chapter 11 Cases as a "foreign main proceeding" pursuant to Part IV of the CCAA.

64. As set out above, the nerve center of the Company, including all Chapter 11 Debtors, is located in the United States. The Company's operations are mainly carried out at the Company's Headquarters, and the Company's main business and corporate decisions are taken in the United States.

65. The Company also predominantly operates its global shared services at the Company's Headquarters, where approximately 45% of the shared services are conducted.

66. With respect to human resources, almost half of the human resources employees, including the Company's Chief People Officer, are based at the Company's Headquarters.

67. The majority of the Company's assets are located in the United States, where both of Skillsoft Canada's directors reside, as well as a significant portion of the Chapter 11 Debtors' directors.

68. There are no senior management personnel employed directly by Skillsoft Canada or located in Canada.

69. Moreover, all of Skillsoft Canada's accounts payable and accounts receivable are managed from the Company's Headquarters and the latter uses an integrated, centralized Cash Management System operated by the treasury team in the United States.

70. The Chapter 11 Debtors' assets and operations are thus highly interconnected with the Company's global operations, which are mainly conducted in the United States.

71. Furthermore, the location that significant creditors of the Chapter 11 Debtors recognize as being the center of the Company's operations is the United States, as appears from the support provided to the relief sought in the present proceedings by the principal secured creditors of the Chapter 11 Debtors.

iii. **Stay of Proceedings**

72. Should the Court make an order recognizing the Chapter 11 Cases to be a "foreign main proceeding", section 48(1) of the CCAA provides that the Court shall make an order subject to any terms and conditions it considers appropriate:

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken against the

Chapter 11 Debtors under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the Chapter 11 Debtors;

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the Chapter 11 Debtors; and

(d) prohibiting the Chapter 11 Debtors from selling or otherwise disposing of, outside the ordinary course of its business, any of the Chapter 11 Debtors' property in Canada that relates to the business and prohibiting the Chapter 11 Debtors from selling or otherwise disposing of any of their other property in Canada.

iv. **Administration Charge**

73. Skillsoft Canada, in its capacity as foreign representative, seeks from this Court the granting of a $150,000 administrative charge over the property of the Chapter 11 Debtors in Canada in respect of the fees and disbursements of the proposed Information Officer and its counsel (the "**Administration Charge**").

74. The Administration Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on the Chapter 11 Debtors' property in Canada, including the DIP Lenders' Charge.

75. The Administration Charge is required to protect the proposed Information Officer and its counsel in the event that their reasonable fees and expenses are unpaid.

76. Skillsoft Canada believes that the Administration Charge sought is necessary and appropriate, as well as reasonable, under the circumstances.

77. The proposed Information Officer has advised that it is supportive of the Administrative Charge.

v. Interim DIP Financing and DIP Charge

a. Recognition of the Interim DIP Order

78. As described above, the Chapter 11 Debtors have negotiated a $60 million DIP Financing with the DIP Lenders.

79. Immediate access to incremental liquidity pursuant to the DIP Financing is critical to maximizing value and facilitating a going-concern restructuring. Without immediate access to the DIP Financing, the Chapter 11 Debtors, including Skillsoft Canada, would face significant near term liquidity challenges and their ability to operate their business in the normal course while seeking to implement the Prepackaged Plan would be undermined, thereby harming the Chapter 11 Debtors' ability to preserve and maximize value for the benefit of their stakeholders, including the stakeholders of Skillsoft Canada. The DIP Financing represents the best available option for the Chapter 11 Debtors to address their short-term liquidity challenges and will maximize value in the circumstances.

80. While the only borrower under the DIP Financing is Skillsoft, the DIP Credit Agreement contemplates that the obligations under the DIP Financing will be jointly and severally guaranteed by certain of Skillsoft's subsidiaries and affiliates, including Skillsoft Canada. Although Skillsoft Canada is not a borrower under the DIP Financing, it is contemplated that the proceeds of the loans under the DIP Financing may be utilized to provide working capital for (among others) all of the Chapter 11 Debtors, including Skillsoft Canada, as well as to fund the expenses of these proceedings.

81. In addition, as discussed above, Skillsoft Canada is a borrower under the First Lien Credit Agreement and a guarantor of the First Lien Borrowers' obligations thereunder, as well as a guarantor of the Second Lien Borrowers' obligations under the Second Lien Credit Agreement, and, as such, Skillsoft Canada's assets are already significantly encumbered.

Nevertheless, the vast majority of the First Lien Lenders and Second Lien Lenders have agreed to support the Chapter 11 Debtors' restructuring proceedings, including the terms of the DIP Financing, as contemplated by the RSA. As noted above, it is not anticipated that the obligations owing to Skillsoft Canada's trade creditors or employees will be affected under the Prepackaged Plan.

82. It is a requirement pursuant to the DIP Financing that the proposed Initial Recognition Order and Supplemental Order be granted, among other things, recognizing the Chapter 11 Cases as a "foreign main proceeding" under the CCAA and giving full force and effect to the Interim DIP Order in Canada, including the granting of the DIP Lenders' Charge.

83. If the requested relief is not granted, the entire restructuring of the Chapter 11 Debtors will be jeopardized. As Skillsoft Canada's operations are wholly intertwined with those of the other Chapter 11 Debtors, Skillsoft Canada's continued viability too will be negatively impacted.

b. The DIP Lenders' Charge

84. The DIP Financing requires Skillsoft Canada to seek a super-priority charge in favour of the Collateral Agent (as defined in the DIP Credit Agreement), for and on behalf of itself, the Administrative Agent (as defined in the DIP Credit Agreement) and the DIP Lenders (the "**DIP Lenders' Charge**") in these proceedings as security for the obligations under the DIP Financing.

85. The proposed DIP Lenders' Charge will constitute a charge on the property of the Chapter 11 Debtors in Canada and will rank in priority to all claims of any nature or kind against Skillsoft Canada, subject only to the Administration Charge.

86. The DIP Lenders' Charge is necessary in order for the Chapter 11 Debtors to obtain the incremental financing pursuant to the DIP Financing to finance their restructuring proceedings and implement the Prepackaged Plan. I am advised by Stikeman Elliott LLP and do verily believe

that all secured creditors who are likely to be affected by the DIP Lenders' Charge have been given notice of this hearing and the relief being sought.

vi. **Appointment of the Information Officer**

87. As part of its application, Skillsoft Canada, in its capacity as foreign representative, seeks to appoint Richter Advisory Group Inc. as the Information Officer.

88. The Information Officer will facilitate cooperation between this Court and the US Court. The Information Officer will also provide information to the Court, creditors and stakeholders as is necessary in a cross-border restructuring.

89. The Information Officer will file reports with the Court prior to each hearing, informing the Court, *inter alia*, of matters affecting the Canadian stakeholders and of any material developments in the Chapter 11 Debtors' restructuring in the United States.

90. Richter Advisory Group Inc. is a certified trustee in bankruptcy in Canada and its principals have acted as information officers in several previous ancillary proceedings.

91. Richter Advisory Group Inc. has consented to act as the Information Officer and a copy of the consent is attached and marked as **Exhibit "K"**.

F. CONCLUSION

92. For the reasons set out above, Skillsoft Canada, in its capacity as foreign representative, respectfully requests that the relief sought in this Application be granted.

AFFIRMED BEFORE ME at the City of _____, in the United States, on June ___, 2020.

_____

Notary Public

_____

John Frederick
Chief Administrative Officer of Skillsoft Corporation

EXHIBIT "A"

Draft Initial Recognition Order

(*See attached*)

|Court File No.

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER PART IV OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Skillsoft Canada, Ltd. in its capacity as the foreign representative (the "**Foreign Representative**") for itself and the Respondents (collectively, the "**Chapter 11 Debtors**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for Orders substantially in the form enclosed in the Application Record, was heard this day by the Court of Queen's Bench of New Brunswick (Trial Division), via a teleconference hearing.

ON READING the Notice of Application, the affidavit of John Frederick dated June 17, 2020 and sworn on this day during the teleconference hearing (the "**Frederick Affidavit**"), the preliminary report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Information Officer**") dated June 17, 2020, each filed, and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) is being sought,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), counsel for an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**"), and upon being advised that, other than the secured creditors of the Chapter 11 Debtors and the other persons listed on the Service List filed as Schedule "A" to the Notice of Application, no other persons were served with the Notice of Application:

SERVICE AND DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURTS ORDERS that capitalized terms used herein and not otherwise defined have the meaning given to them in the Frederick Affidavit.

FOREIGN REPRESENTATIVE

3. THIS COURT ORDERS AND DECLARES that the Foreign Representative is the "foreign representative" as defined in section 45 of the CCAA of the Chapter 11 Debtors in respect of the cases commenced by the Chapter 11 Debtors in the United States Bankruptcy Court for the District of Delaware pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**").

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

4. THIS COURT DECLARES that the centre of main interest for each of the Chapter 11 Debtors is in the United States, and that the Foreign Proceeding is hereby recognized as a "foreign main proceeding" as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

5. THIS COURT ORDERS that until otherwise ordered by this Court:

(a) all proceedings taken or that might be taken against any Chapter 11 Debtor under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;

(b) further proceedings in any action, suit or proceeding against any Chapter 11 Debtor are restrained; and

(c) the commencement of any action, suit or proceeding against any Chapter 11 Debtor is prohibited.

NO SALE OF PROPERTY

6. THIS COURT ORDERS that, except with leave of this Court, each of the Chapter 11 Debtors is prohibited from selling or otherwise disposing of:

(a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and

(b) any of its other property in Canada.

GENERAL

7. THIS COURT ORDERS that within five (5) business days from the date of this Order, or as soon as practicable thereafter, the Foreign Representative, with the assistance of the Information Officer, shall cause to be published a notice substantially in the form attached to this Order as Schedule A, once a week for two consecutive weeks, in The Globe and Mail and in the Telegraph Journal.

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Chapter 11 Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

9. THIS COURT ORDERS AND DECLARES that this Order shall be effective as of 12:01 a.m. ADT of the date of this Order.

10. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Chapter 11 Debtors, the Foreign Representative, the Information Officer, the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

DATED this ____ day of June, 2020 at Saint John, New Brunswick

Mr. Justice Darrell J. Stephenson
Court of Queen's Bench – Trial Division

Schedule "A" – Notice of Recognition Order

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD. (the "**Chapter 11 Debtors**")

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

NOTICE OF RECOGNITION ORDERS

PLEASE BE ADVISED that this Notice is being published pursuant to orders of The Court of Queen's Bench of New Brunswick (Trial Division) (the "**Canadian Court**"), granted on June ●, 2020 (the "**Recognition Orders**").

PLEASE TAKE NOTICE that on June 14, 2020, the Chapter 11 Debtors each commenced voluntary reorganization cases (the "**Chapter 11 Cases**") pursuant to chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). In connection with the Chapter 11 Cases, the Chapter 11 Debtors have appointed Skillsoft Canada, Ltd. as their foreign representative of the estates of the Chapter 11 Debtors in Canada (the "**Foreign Representative"**). The Foreign Representative's address is 570 Queen Street, Suite 600, Fredericton, New Brunswick, E3B 6Z6.

AND TAKE NOTICE that the Recognition Orders have been issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36 (the "**CCAA Recognition Proceedings**"), among other things: (i) declaring that the Chapter 11 Cases are recognized as a foreign main proceeding; (ii) granting a stay of proceedings against the Chapter 11 Debtors and their directors and officers in Canada; (iii) prohibiting the commencement of any proceedings against the Chapter 11 Debtors in Canada absent further order of the Canadian Court; (iv) recognizing certain orders granted by the Bankruptcy Court in the Chapter 11 Cases; and (v) appointing Richter Advisory Group Inc. as the Information Officer with respect to the CCAA Recognition Proceedings.

AND TAKE NOTICE that motions, orders and notices filed with the Bankruptcy Court in the Chapter 11 Cases are available at:

http://www.kccllc.net/skillsoft/document/list/5160

and that the Recognition Orders, and any other orders that may be granted by the Canadian Court, are available at:

https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/

AND TAKE NOTICE that counsel for the Foreign Representative is:

Stikeman Elliott LLP
1155 Boulevard René-Lévesque West, Suite 4100, Montréal, Québec, H3B 3V2
Attention: Me Joseph Reynaud / Me Vincent Lanctôt-Fortier
Phone: (514) 397 3019 / (514) 397 3176
Email: JReynaud@stikeman.com / VLanctotFortier@stikeman.com

PLEASE FINALLY NOTE that if you wish to receive copies of the Recognition Orders or obtain further information in respect of the matters set forth in this Notice, you may contact the Information Officer:

Richter Advisory Group Inc.
Richter Tower, 1981 McGill College Ave, Montreal, Quebec H3A 0G6
Attention: Andrew Adessky / Olivier Benchaya
Phone: (514) 934 3513 / (514) 934 8618
Email: aadessky@richter.ca / obenchaya@richter.ca

DATED AT MONTREAL, QUEBEC this [●] day of June, 2020.

EXHIBIT "B"

Draft Supplemental Order

(*See attached*)

Court File No.

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD.
UNDER PART IV OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Skillsoft Canada, Ltd. in its capacity as the foreign representative (the "**Foreign Representative**") of the Chapter 11 Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day by the Court of Queen's Bench of New Brunswick (Trial Division), via a teleconference hearing.

ON READING the Notice of Application, the affidavit of John Frederick sworn **[DATE]** (the "**Frederick Affidavit**"), the preliminary report of Richter Advisory Group Inc., in its capacity as proposed Information Officer (as defined below) dated **[DATE]**, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), counsel for an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**") and on reading the consent of Richter Advisory Group Inc. to act as the information officer:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

INITIAL RECOGNITION ORDER

2. THIS COURT ORDERS that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated **[DATE]** (the "**Recognition Order**") and in the Frederick Affidavit, as applicable.

3. THIS COURT ORDERS that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. THIS COURT ORDERS that the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

(a) *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* attached as Schedule "A" of this Order;

(b) *Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date* attached as Schedule "B" of this Order;

(c) *Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541* attached as Schedule "C" of this Order;

(d) *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached as Schedule "D" of this Order;

(e) *Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief* attached as Schedule "E" of this Order;

(f) *Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief* attached as Schedule "F" of this Order;

(g) *Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief* attached as Schedule "G" of this Order;

(h) *Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Service, and (IV) Granting Related Relief* attached as Schedule "H" of this Order;

(i) *Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief* attached as Schedule "I" of this Order;

(j) *Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief* attached as Schedule "J" of this Order;

(k) *Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief* attached as Schedule "K" of this Order (the "**Interim DIP Order**");

(l) *Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018* attached as Schedule "L" of this Order;

(m) *Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief* attached as Schedule "M" of this Order;

(n) *Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter* attached as Schedule "N" of this Order;

(o) *Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal* attached as Schedule “O” of this Order; and

(p) *Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal* attached as Schedule “P” of this Order.

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER

5. THIS COURT ORDERS that Richter Advisory Group Inc. (the "**Information Officer**") is hereby appointed as an officer of this Court, with the powers and duties set out herein.

NO PROCEEDINGS AGAINST THE CHAPTER 11 DEBTORS OR THE PROPERTY

6. THIS COURT ORDERS that from the date of the Recognition Order until such date as this Court may order (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Chapter 11 Debtors or affecting their business (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Chapter 11 Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Chapter 11 Debtors, or affecting the Business or the Property, are hereby stayed and

suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Chapter 11 Debtors to carry on any business in Canada which that Chapter 11 Debtor is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

8. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Chapter 11 Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Chapter 11 Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Chapter 11 Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Chapter 11 Debtors, and that the Chapter 11 Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names.

10. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Chapter 11 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Chapter 11 Debtors whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

11. THIS COURT ORDERS that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. THIS COURT ORDERS that the Information Officer:

(a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

(b) shall report to this Court periodically with respect to the status of these proceedings and the status of the Foreign Proceedings, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;

(c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;

(d) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Chapter 11 Debtors, to the extent that is necessary to perform its duties arising under this Order; and

(e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. THIS COURT ORDERS that the Chapter 11 Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Chapter 11 Debtors or the Foreign Representative in these proceedings or in the Foreign Proceedings, (ii) co-

operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. THIS COURT ORDERS that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

15. THIS COURT ORDERS that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. THIS COURT ORDERS that the Information Officer may provide any creditor of a Chapter 11 Debtor with information provided by the Chapter 11 Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Chapter 11 Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Chapter 11 Debtors may agree.

17. THIS COURT ORDERS that Canadian counsel to the Chapter 11 Debtors, the Information Officer and counsel to the Information Officer shall be paid by the Chapter 11 Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Chapter 11 Debtors are hereby authorized and directed to pay the accounts of Canadian counsel to the Chapter 11 Debtors, the Information Officer and counsel for the Information Officer forthwith upon receipt.

18. THIS COURT ORDERS that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Trial Division of the Court of

Queen's Bench of New Brunswick, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. THIS COURT ORDERS that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of $150,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs **[21]** and **[23]** hereof.

INTERIM FINANCING

20. THIS COURT ORDERS that the Collateral Agent (as such term is defined in the DIP Credit Agreement), for and on behalf of itself, the Administrative Agent (as such term is defined in the DIP Credit Agreement), and the other Lenders (as such term is defined in the DIP Credit Agreement) shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lenders' Charge**") on the Property in Canada as security for the Obligations (as such term is defined in the DIP Credit Agreement), which DIP Lenders' Charge shall be consistent with the liens and charges created by the Interim DIP Order, provided however that the DIP Lenders' Charge, with respect to the Property in Canada, shall have the priority set out in paragraphs **[21]** and **[23]** hereof, and further provided that the DIP Lenders' Charge shall not be enforced except with leave of this Court, it being understood that the Collateral Agent shall be entitled to deliver a Termination Declaration (as defined in the Interim DIP Order) in accordance with the Interim DIP Order without obtaining leave of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. THIS COURT ORDERS that the priorities of the Administration Charge and the DIP Lenders' Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $150,000); and

Second – DIP Lenders' Charge.

22. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected

subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

23. THIS COURT ORDERS that the Charges (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

24. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Chapter 11 Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Charges, unless the Chapter 11 Debtors also obtain the prior written consent of the Information Officer and the Lenders.

25. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership order made pursuant to such applications; (iii) the filing of any assignment for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Chapter 11 Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by a Chapter 11 Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by the Chapter 11 Debtors to the Chargees pursuant to this Order and the DIP Documents, and the granting of the Charges, do not and will not constitute a preference, fraudulent conveyance, transfer at

undervalue, oppressive conduct, or other challengeable or voidable transaction under any applicable law.

26. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Chapter 11 Debtor's interest in such real property leases.

SERVICE AND NOTICE

27. The Information Officer shall: i) without delay, publish in the Globe and Mail, National Edition and the Telegraph Journal a notice containing the information prescribed under the CCAA; and ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than $1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

28. The Information Officer shall create a list of names and contact information, including Email addresses, of all known creditors who have a claim against the Applicant of more than $1000, and all other parties to this proceeding (the "**E-Service List**"). The Information Officer shall exercise best efforts to ensure the E-Service list is correct and up-to-date, and shall make the E-Service List available on its website at:

https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/

29. The Chapter 11 Debtors, the Foreign Representative and the Information Officer shall be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing. Electronic transmission of this Order, any other materials and orders in these proceedings, or any notices or other correspondence, shall be deemed to be effective substituted service in accordance with Rule 18.04 of the *Rules of Court*, provided the party serving the documents

prepares an Affidavit of Service containing the particulars of the service, including the E-Service List served, the Email addresses to which the documents were sent and the time of the Emailing.

30. The Chapter 11 Debtors, the Foreign Representative and the Information Officer, and any party who has appeared in these proceedings through counsel may serve any court materials in these proceedings by e-mailing a PDF or an HTML link of such materials to counsels' email addresses as recorded on the service list from time to time, and the Information Officer shall post a copy of such materials on its website at **https://www.richter.ca/insolvencycase/skillsoft-canada-ltd/** in a manner that facilitates any interested party to easily locate court documents filed in this proceeding. The documents to be posted on the Information Officer's website is not intended to be exhaustive but shall include:

(a) Notices of application/notices of motion;

(b) All affidavits, including exhibits, and other material filed by an applicant/moving party with respect to this application or any motion;

(c) All responding affidavits, including exhibits, and other material delivered in response to this application or any motions by all respondents;

(d) All facta, briefs, and written arguments delivered by any party to this application or any within motion;

(e) Books of authorities;

(f) All court reports filed by the Information Officer or the Foreign Representative;

(g) All Court Orders, Reasons for Decision, and Endorsements;

(h) The current version of the E-Service List; and

(i) Any document that requires dissemination to the interested parties, such as proof of claims forms, notices of creditor meeting, plan disclosure statements, plans of reorganization and voting letters as requested by the Applicant, the Foreign Representative or the Information Officer.

31. The Information Officer shall maintain the above information on its website for a period of at least six months after the completion of this proceeding.

GENERAL

32. THIS COURT ORDERS that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

33. THIS COURT ORDERS that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

34. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Chapter 11 Debtors, the Foreign Representative, the Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Chapter 11 Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Chapter 11 Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

35. THIS COURT ORDERS that each of the Chapter 11 Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

36. THIS COURT ORDERS that any materials and/or exhibits subject to a sealing order granted by the U.S. Bankruptcy Court and which have been filed in this Court's record shall be kept confidential and *under seal* until further order from this Court.

37. THIS COURT ORDERS that the Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network and adopted by the U.S. Bankruptcy Court and attached as Schedule "Q" hereto is adopted by this Court for the purposes of these recognition proceedings.

38. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Chapter

11 Debtors, the Foreign Representative, the Information Officer, the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

39. THIS COURT ORDERS that this Order shall be effective as of 12:01 a.m. ADT on the date of this Order.

DATED this ___ day of June, 2020 at Saint John, New Brunswick

Mr. Justice Darrell J. Stephenson
Court of Queen's Bench – Trial Division

Schedule "A"

Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief

(See attached)

Docket #0073 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20–11532 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 02-0496115	:	

In re:	:	**Chapter 11**
AMBER HOLDING INC.,	:	**Case No. 20–11534 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 26-4590335	:	

In re:	:	**Chapter 11**
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20–11533 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 42-1607228	:	

In re:	:	**Chapter 11**
MINDLEADERS, INC.,	:	**Case No. 20–11535 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 98-0536072	:	

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In re:	:	**Chapter 11**
	:	
ACCERO, INC.,	:	**Case No. 20–11536 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 26-1744684	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20–11538 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 22-3482109	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT, INC.,	:	**Case No. 20–11537 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 11-2530586	:	
In re:	:	**Chapter 11**
	:	
POINTWELL LIMITED,	:	**Case No. 20–11540 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS I LIMITED,	:	**Case No. 20–11539 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS II LIMITED,	:	**Case No. 20–11541 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS III LIMITED,	:	**Case No. 20–11542 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT LIMITED,	:	**Case No. 20–11543 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20–11544 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
THIRDFORCE GROUP LIMITED,	:	**Case No. 20–11545 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SKILLSOFT U.K. LIMITED,	:	**Case No. 20–11546 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT CANADA, LTD.,	:	**Case No. 20–11547 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[1] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), for an entry of an order (i) directing joint administration of their chapter 11 cases for procedural purposes only, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant

[1] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 20-11532 (MFW).

3. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective estates.

4. The caption of the jointly administered cases shall read as follows:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

5. A docket entry shall be made in each of the above-captioned cases substantially as follows:

> An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc. (U.S.); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The docket in Skillsoft Corporation, Case No. 20-11532 (MFW) should be consulted for all matters affecting this case.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "B"

Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 12**

ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT *NUNC PRO TUNC* TO THE PETITION DATE

Upon the application (the "**Application**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 156(c) of title 28 of the United States Code, section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), requesting entry of an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent ("**Claims and Noticing Agent**") in the Debtors' chapter 11 cases, which will include KCC assuming full responsibility for the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

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distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Debtors' chapter 11 cases, all as more fully set forth in the Application; and upon the Jordan Declaration, filed contemporaneously with and attached to the Application as Exhibit B; and the Debtors having estimated that there are in excess of 10,000 notice parties in these chapter 11 cases; and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Application, the record of the Hearing and all of the proceedings had before the Court is in the best interests of the Debtors, their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Application

establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Debtors are authorized to retain KCC as Claims and Noticing Agent effective *nunc pro tunc* to the Petition Date under the terms of the Engagement Agreement.

2. KCC is authorized and directed to perform noticing services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (collectively, the "**Claims and Noticing Services**").

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtors are authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate

documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee for the District of Delaware, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Engagement Agreement or monthly invoices; provided that the parties may seek resolution of the matter from the Court if resolution is not achieved.

8. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates.

9. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

10. The Debtors shall indemnify KCC under the terms of the Engagement Agreement, as modified pursuant to this Order.

11. KCC shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court.

12. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Order.

13. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution or reimbursement.

14. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and the Debtors' attorney and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' attorney.

15. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

16. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

17. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

18. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

19. KCC shall not cease providing claims processing services during the chapter 11 cases for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

21. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "C"

Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 11**

ORDER PURSUANT TO 11 U.S.C. § 105 ENFORCING THE PROTECTIONS OF 11 U.S.C. §§ 362, 365, 525, AND 541

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), pursuant to section 105 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order enforcing the protections of sections 362, 365, 525, and 541 of the Bankruptcy Code, to aid in the administration of these chapter 11 cases and to help ensure that the Debtors' global business operations are not disrupted, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. Pursuant to section 362 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 1**), the commencement of these chapter 11 cases shall operate as a stay, applicable to all persons (including individuals, partnerships, corporations, and all those acting for or on their behalf) and all foreign or domestic governmental units (and all those acting for or on their behalf) of:

   a. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of the Debtors' chapter 11 cases, or to recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

   b. the enforcement, against the Debtors or against property of their estates, of a judgment obtained before the commencement of the Debtors' chapter 11 cases;

   c. any act to obtain possession of property of the estates or of property from the estates or to exercise control over property of the Debtors' estates;

d. any act to create, perfect, or enforce any lien against property of the Debtors' estates;

e. any act to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose before the commencement of the Debtors' chapter 11 cases;

f. any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

g. the setoff of any debt owing to the Debtors that arose before the commencement of these chapter 11 cases; and

h. the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of the Debtors for a taxable period the bankruptcy court may determine.

3. This Order shall not affect the exceptions to the automatic stay contained in section 362(b) of the Bankruptcy Code or the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code.

4. Pursuant to section 365 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 2**), and notwithstanding any contract or lease provision or applicable law, an executory contract or unexpired lease of the Debtors may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the Debtors' chapter 11 cases solely because of a provision in such contract or lease that is conditioned on (i) the insolvency or financial condition of any or all Debtors or (ii) the commencement of the Debtors' chapter 11 cases.

5. Pursuant to section 525 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 3**), a foreign or domestic governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, the Debtors or the

Debtors' affiliates on account of (i) the commencement of the Debtors' chapter 11 cases; (ii) the Debtors' insolvency; or (iii) the fact that the Debtors have not paid a debt that is dischargeable in the Debtors' chapter 11 cases.

6. Pursuant to section 541 of the Bankruptcy Code, (a copy of the text of which is annexed hereto as **Exhibit 4**), any interest of the Debtors in property becomes property of the estates, notwithstanding any provision in any agreement, transfer instrument, or applicable nonbankruptcy law, that: (a) restricts or conditions transfer of such interest by the Debtors, or (b) is conditioned on the insolvency or financial condition of the Debtors or on the commencement of the Debtors' chapter 11 cases, and that effects or gives an option to effect a forfeiture, modification, or termination of the Debtor's interest in property. Any purported restriction, condition, forfeiture, modification, or termination is void *ab initio*.

7. This Order is intended to be declarative of and coterminous with, and shall neither abridge, enlarge nor modify, the rights and obligations of any party under sections 362, 365, 525, and 541 of the Bankruptcy Code or any other provision of the Bankruptcy Code.

8. The Debtors are authorized to take all steps necessary to carry out this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Section 362 of the Bankruptcy Code

§ 362. Automatic Stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a)—

(A) of the commencement or continuation of a civil action or proceeding—

(i) for the establishment of paternity;

(ii) for the establishment or modification of an order for domestic support obligations;

(iii) concerning child custody or visitation;

(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

(v) regarding domestic violence;

(B) of the collection of a domestic support obligation from property that is not property of the estate;

(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;

(3) under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title;

(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money

judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;
[(5) Repealed. Pub. L. 105–277, div. I, title VI, § 603(1), Oct. 21, 1998, 112 Stat. 2681–866;]
(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;
(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(8) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units;
(9) under subsection (a), of—

> **(A)** an audit by a governmental unit to determine tax liability;
> **(B)** the issuance to the debtor by a governmental unit of a notice of tax deficiency;
> **(C)** a demand for tax returns; or
> **(D)** the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).

(10) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property;
(11) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument;
(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under chapter 537 of title 46 or section 109(h) of title 49, or under applicable State law;
(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under chapter 537 of title 46;
(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;
(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution;
(16)under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act;
(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in

section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;
(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;

(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;
(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;

(22) subject to subsection (*l*), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;
(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;
(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;
(25) under subsection (a), of—

(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;

(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);

(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and

(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B)on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors, if—

(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

(aa) if a case under chapter 7, with a discharge; or

(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

(4)

(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors if—

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization;

(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—

(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(B) the debtor has commenced monthly payments that—

(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

(e)

(1) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances.

(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) such 60-day period is extended—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(f) Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

(h)

(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.

(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

(k)

(1) Except as provided in paragraph (2), an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.

(l)

(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

(3)

(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

(5)

(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

(m)

(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

(2)

(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.

(n)

(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

(A) is a debtor in a small business case pending at the time the petition is filed;

(B)was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the

evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

(2) Paragraph (1) does not apply—

(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition if—

(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.

(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.

Exhibit 2

Section 365 of the Bankruptcy Code

§ 365. Executory contracts and unexpired leases

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)

(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title;

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement; or

(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.

(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1)

(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

(3) such lease is of nonresidential real property and has been terminated under applicable nonbankruptcy law prior to the order for relief.

(d)

(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, 12, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(4) (A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(i) the date that is 120 days after the date of the order for relief; or

(ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

(5) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(e)

(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(A)

(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)

(1) Except as provided in subsections (b) and (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsections (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112, 1208, or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112, 1208, or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)

(1)

(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease,

but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

(D) In this paragraph, "lessee" includes any successor, assign, or mortgagee permitted under the terms of such lease.

(2)

(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(i)

(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

(l) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(10), leases of real property shall include any rental agreement to use real property.

(n)

(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

(i) the duration of such contract; and

(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

(A) the trustee shall allow the licensee to exercise such rights;

(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

(C) the licensee shall be deemed to waive—

(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract or any agreement supplementary to such contract—

(i) perform such contract; or

(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to a Federal depository institutions regulatory agency (or predecessor to such agency) to maintain the capital of an insured depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.

(p)

(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

(2)

(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.

Exhibit 3

Section 525 of the Bankruptcy Code

§ 525. Protection Against Discriminatory Treatment

(a) Except as provided in the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943, a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.

(c)

(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a student grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(2) In this section, "student loan program" means any program operated under title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.

Exhibit 4

Section 541 of the Bankruptcy Code

§ 541. Property of the Estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include—

(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor;

(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case;

(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.),[1] or any accreditation status or State licensure of the debtor as an educational institution;

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

(A)

(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 544(a)(3) of this title; or

(B)

(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 542 of this title;

(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(6) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(7) any amount—

(A) withheld by an employer from the wages of employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

(B) received by an employer from employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title;

(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b);

(9) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor), unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition; or

(10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(h) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,225. Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.

(c)

(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.

(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

Schedule "D"

Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505

(See attached)

Docket #0079 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 5**

ORDER AUTHORIZING SKILLSOFT CANADA, LTD. TO ACT AS FOREIGN REPRESENTATIVE ON BEHALF OF THE DEBTORS' ESTATES PURSUANT TO 11 U.S.C. § 1505

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for an order pursuant to section 1505 of title 11 of the United States Code (the "**Bankruptcy Code**"), authorizing Skillsoft Canada, Ltd. ("**Skillsoft Canada**") to act as Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding, as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtor's corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted as set forth herein.

2. Skillsoft Canada is authorized, pursuant to section 1505 of the Bankruptcy Code, to act as the Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding. As Foreign Representative, Skillsoft Canada shall be authorized and have the power to act in any way permitted by applicable foreign law, including, but not limited to (i) seeking recognition of these chapter 11 cases and this Court's orders, including the DIP Order, in the Canadian Recognition Proceeding, (ii) requesting that the Canadian Court lend assistance to this Court in protecting the property of the Debtors' estates, and (iii) seeking any other appropriate relief from the Canadian Court that Skillsoft Canada deems just and proper in the furtherance of the protection of the Debtors' estates.

3. This Court requests the aid and assistance of the Canadian Court to recognize these chapter 11 cases as a "foreign main proceeding" and Skillsoft Canada as a "foreign representative" pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order and any other orders for which recognition is sought.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "E"

Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 10**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing, but not directing, the Debtors to (a) continue using their existing cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank account (the "**Bank Accounts**") at their existing bank (the "**Banks**") consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Intercompany Transactions between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as set forth herein but otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse cash in accordance with the Cash Management System and Ordinary Course Intercompany Transactions, except as otherwise set forth herein; and to make ordinary course changes to their Cash Management System, provided that such changes do not have a material adverse effect on the Debtors' estates.

3. The Debtors in their capacity as Originators are authorized, but not directed to continue complying with the terms of the AR Facility Agreement and the AR Purchase Agreement in the ordinary course of business.

4. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Interim Order), the Business Forms, as well as checks and other documents related to the Debtor Bank Accounts existing immediately before the Petition Date; *provided* that once the Debtors' existing Business Forms, checks, and other related documents have been used, the Debtors shall use reasonable efforts, when reordering checks or reprinting Business Forms or other related documents, to require the designation "Debtor in Possession" and the corresponding bankruptcy case number on such checks, Business Forms, and related documents; *provided further* that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend and the bankruptcy case number on such items within 10 business days of the date of entry of this Interim Order.

5. Notwithstanding anything to the contrary in the U.S. Trustee Operating Guidelines, the Debtors are further authorized to: (i) designate, maintain and continue to use any

or all of their existing Debtor Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including through checks, wire transfers, ACH transfers, and other debits in the ordinary course and in a manner consistent with prepetition practices; (iii) pay any Bank Fees or other charges associated with the Debtor Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (iv) treat their prepetition Debtor Bank Accounts for all purposes as debtor in possession accounts.

6. The Debtors are authorized, subject to the reasonable consent of Required DIP Lenders (as defined in the DIP Orders (defined below)), to open new bank accounts and enter into any ancillary agreements, including new deposit account control agreements, related to the foregoing; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Debtor Bank Account as if it had been listed on **Appendix 1** to this Interim Order under the heading "Debtor Bank Accounts"; *provided further* that such opening of an account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within ten (10) business days to the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the administrative agent for the Debtors' prepetition and proposed postpetition financing lenders; and *provided further* that the Debtors shall only open any such new Debtor Bank Account at a bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement.

7. Each Bank is authorized to accept and rely upon, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated before, on, or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of this Court (but such check, draft, wire, or other transfer shall only be honored to the extent of available funds). No Bank shall incur any liability for relying upon any Debtor's instruction as to which checks, drafts, wires, or ACH transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire, or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Debtor Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue, and payee information, those checks that are to be dishonored by such Bank (the "**List of Checks to be Dishonored**"), which checks may include those issued after the Petition Date as well as those issued before the Petition Date that are not to be honored or paid according to any order of this Court, and each Bank may honor all other checks. Except for those checks, drafts, wires, or ACH transfers that are authorized or required to be honored under an order of this Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Debtor Bank Account before the Petition Date but presented to such Bank for payment after the Petition Date. The Debtors shall include on the List of Checks to be Dishonored: (i) all pre-petition checks, drafts or other payment item issued on a Debtor Bank Account before the Petition Date that remain outstanding as of the Petition Date, other than those authorized or required to be honored under an order of this Court and (ii) all postpetition checks paying

prepetition obligations, other than those that are authorized or required to be honored under an order of this Court.

8. Nothing contained herein shall prevent the Debtors from closing any Debtor Bank Accounts as they may deem necessary and appropriate, if consistent with the terms of any postpetition financing agreements and any orders of this Court relating thereto. Any relevant Bank is further authorized to honor the Debtors' requests to close such Debtor Bank Accounts, and the Debtors shall give notice of the closure of any account within ten (10) business days to the U.S. Trustee, counsel to any statutory committee appointed in these chapter 11 cases and counsel to the DIP Lenders (as defined in the DIP Orders).

9. For all Banks at which the Debtors maintain Debtor Bank Accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen (15) business days of the date of entry of this Interim Order, the Debtors shall (i) contact each such Bank, (ii) provide each such Bank with each of the Debtors' employee identification numbers, and (iii) identify each of their Debtor Bank Accounts held at such Banks as being held by a debtor in possession in a chapter 11 case.

10. For Banks that are not a party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors shall use their good faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the Office of the United States Trustee within forty five (45) days of the date of entry of this Order.

11. The Debtors are authorized, but not directed, to continue engaging in Ordinary Course Intercompany Transactions in connection with the Cash Management System in the ordinary course of business (including with respect to netting or setoffs permitted by section 553 of the Bankruptcy Code), but subject to the terms of the Debtors' DIP Credit

Agreement (as defined in the DIP Orders); *provided, however*, that before the final order on this Motion, transfers from the Debtors to Non-Debtor Affiliates shall not exceed $2 million.

12. The Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (i) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (ii) prohibited or restricted by the terms of the DIP Orders. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid net postpetition Intercompany Transactions made in the ordinary course between Debtors shall be accorded administrative expense status, junior to any adequate protection claims granted under the DIP Orders.

13. Unless prohibited by applicable law, transfers made by a Debtor to a Non-Debtor Affiliate pursuant to a postpetition Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that any transfers by a Non-Debtor Affiliate to a Debtor will reduce the claim against the Non-Debtor Affiliate and any such transfer shall be subject to the terms of the DIP Credit Agreement.

14. The Debtors shall maintain accurate and detailed records of all transactions and transfers, including Intercompany Transactions, within the Cash Management System, so that all postpetition transfers and transactions are readily ascertainable, traceable, recorded properly, and distinguished between prepetition and postpetition transactions.

15. The Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, and charge back returned items, whether such items were deposited prepetition or postpetition, to the Debtor Bank Accounts in the ordinary course. Any such

postpetition fees, costs, charges, and expenses, including the Bank Fees, or charge-backs are not so paid shall be entitled to priority as administrative expense pursuant to section 503(b)(1) of the Bankruptcy Code.

16. The Debtors shall have forty-five (45) calendar days (or such additional time as the U.S. Trustee may agree to) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

17. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; (iii) the Budget (as defined in the DIP Orders); and (iv) the terms

and conditions set forth in the Restructuring Support Agreement. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

19. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

20. Notwithstanding entry of this Interim Order, nothing herein shall (a) create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party or (b) alter or impair the validity, continuation, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

22. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

23. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

24. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington,

Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

25. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

26. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (XXXX)	Account Type
Debtor Bank Accounts				
1	Skillsoft Corporation	Bank of America	XXXX9979	Operating
2	SumTotal Systems LLC	Silicon Valley Bank	XXXX2718	Lockbox
3	SumTotal Systems LLC	Wells Fargo Bank	XXXX4963	Lockbox
4	SumTotal Systems LLC	Silicon Valley Bank	XXXX2703	Operating
5	Skillsoft Canada Limited	Bank of America	XXXX4203	Operating
6	Skillsoft Canada Limited	Bank of America	XXXX4104	Operating
7	Skillsoft Limited	Bank of America	XXXX6034	Operating
8	Pointwell Limited	Bank of America	XXXX3019	Operating
9	Skillsoft Ireland Limited	Bank of America	XXXX1011	Operating
10	Skillsoft Ireland Limited	Bank of America	XXXX1029	Operating
11	Thirdforce Group Limited	Bank of America	XXXX1016	Operating
12	Skillsoft U.K. Limited	Bank of America	XXXX7017	Operating
13	Skillsoft U.K. Limited	Bank of America	XXXX7025	Operating
14	Skillsoft U.K. Limited	Bank of America	XXXX7033	Operating
15	Skillsoft U.K. Limited	Bank of America	XXXX7041	Operating
Non-Debtor Bank Accounts				
1	MindLeaders Ireland Learning Limited	Bank of America	XXXX4010	Operating
2	Skillsoft NETg GmbH	Bank of America	XXXX3013	Operating
3	Skillsoft NETg GmbH	Bank of America	XXXX0018	Operating
4	Skillsoft France SARL	Bank of America	XXXX1013	Operating

5	Skillsoft France SARL	Bank of America	XXXX1021	Operating
6	Skillsoft Group France SAS	Bank of America	XXXX8019	Operating
7	SumTotal Systems France SAS	Bank of America	XXXX1014	Operating
8	SumTotal Systems France SAS	Bank of America	XXXX1022	Operating
9	Skillsoft Digital (France) SAS	Bank of America	XXXX9018	Operating
10	SumTotal Systems Canada Limited	Bank of America	XXXX4106	Operating
11	SumTotal Systems Canada Limited	Bank of America	XXXX4205	Operating
12	SumTotal Systems U.K. Limited	Bank of America	XXXX2019	Operating
13	SumTotal Systems U.K. Limited	Bank of America	XXXX2035	Operating
14	SumTotal Systems U.K. Limited	Bank of America	XXXX2027	Operating
15	SumTotal Systems ANZ Pty. Ltd	Bank of America	XXXX3010	Operating
16	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3015	Operating
17	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3023	Operating
18	SumTotal Systems India Private Limited	CitiBank	XXXX25555	Operating
19	SumTotal Systems India Private Limited	CitiBank	XXXX45555	Operating
20	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1011	Operating
21	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1029	Operating
22	SumTotal Systems Japan	Mitsuisumitomo	XXXX7719	Operating
23	SumTotal Systems Japan	Mitsuisumitomo	XXXX3415	Operating
24	Skillsoft Software Services India Private Limited	Bank of America	XXXX7059	Operating
25	Skillsoft Software Services India Private Limited	Bank of America	XXXX7067	Operating

26	Skillsoft New Zealand Limited	Bank of America	XXXX1600	Operating
27	Element K India Private Limited	Bank of America	XXXX3012	Operating
28	Skillsoft (China) Ltd.	ICBC	XXXX1732	Operating
29	Skillsoft (China) Ltd.	ICBC	XXXX1821	Operating
30	Skillsoft (China) Ltd.	ICBC	XXXX2705	Operating

Schedule "F"

Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief

(See attached)

Docket #0076 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 7**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an interim order (the "**Interim Order**") (i) authorizing, but not directing, the Debtors to (a) continue maintaining their Insurance Policies and Programs and (b) honor their Insurance Obligations in the ordinary course of business

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations, including amounts owed to the Insurance Service Providers, (c) modify the automatic stay if necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Insurance Obligations (including amounts owed to the Insurance Service Providers) arising under or relating to the Insurance Policies and Programs,

including any new Insurance Policies and Programs, without regard to whether such Insurance Policies and Programs are listed on **Exhibit C** to the Motion, and without regard to whether accruing or relating to the period before or after the Petition Date, on an interim basis without further order of the Court.

3. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs in accordance with practices and procedures that were in effect before the Petition Date.

4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including through the purchase or renewal of new or existing Insurance Policies and Programs.

5. The automatic stay is modified solely to the extent necessary to permit the Debtors' employees to proceed with any valid claims they may have under the Workers' Compensation Program, provided that any recovery on account of such claims is limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Insurance Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Insurance Obligations, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

8. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted here, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Approved Budge (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

15. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "G"

Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 3**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing the Debtors to pay the Taxes and Fees, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Taxes and Fees as such obligations become due to the Authorities, in amounts not to exceed $1,100,000.00 in the aggregate on an interim basis.

3. The Debtors are further authorized, but not directed, to continue paying the Taxes and Fees in accordance with practices and procedures that were in effect before the Petition Date.

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Taxes and Fees are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other

order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Taxes and Fees as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-Debtor affiliate except as permitted by the Approved Budget.

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any

agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

11. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

12. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com),

Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

13. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

14. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "H"

Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 6**

INTERIM ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order (i) approving the Debtors' proposed form of adequate assurance of payment for Utility Providers, (ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting Utility Providers from altering, refusing, or discontinuing utility service on account of the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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commencement of these chapter 11 cases and/or outstanding prepetition invoices, and (iv) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. Absent compliance with the procedures set forth in the Motion and this Interim Order, the Debtors' utility providers (the "**Utility Providers**") are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11

cases and/or any unpaid prepetition charges and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

3. Funds held in the Adequate Assurance Account and any Adequate Assurance Deposit shall be returned to the Debtors upon the effective date of a chapter 11 plan for the Debtors or such other time as these cases may be closed without further Court order; provided, that there are no outstanding disputes related to postpetition payments due.

4. The Adequate Assurance Deposit, in conjunction with the Debtors' cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrate the Debtors' ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**") and constitute sufficient adequate assurance to the Utility Providers.

5. The following Adequate Assurance Procedures are hereby approved in the entirety on an interim basis:

a. The Debtors will mail a copy of the Motion and this Interim Order, which include the Adequate Assurance Procedures, to each Utility Provider within two (2) business days after entry of this Interim Order.

b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within twenty (20) calendar days after entry of this Interim Order; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value upon the agreement of such Utility Provider.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by all of the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A.,

920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases and/or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve such its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but is not limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider is prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to

any of the Debtors by the Utility Provider, or any objections to the Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of this Interim Order, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

6. The Debtors are authorized, in their sole discretion, to amend the utility service list attached as **Exhibit B** to the Motion (the "**Utility Service List**") to add or delete any Utility Provider, and this Interim Order shall apply to any Utility Provider that is subsequently added to the Utility Service List. Any such amended Utility Service List shall be filed with the Court.

7. The inclusion of any entity in, or the omission of any entity from, the Utility Service List shall not be deemed an admission by the Debtors that such entity is or is not a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of this Interim Order on the subsequently added Utility Provider and deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider, and any such subsequently added entities shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

9. The Debtors may terminate the services of any Utility Provider and are immediately authorized to reduce the Adequate Assurance Deposit by the amount held on account of such terminated Utility Provider.

10. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

14. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

15. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq.

(katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon: (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020** at **4:00 p.m. (prevailing Eastern Time)**.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

17. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "I"

Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 9**

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for an order (i) authorizing the Debtors to pay the prepetition Trade Claims in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Bankruptcy Rules, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

1. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), 363(c), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay, in the ordinary course of business, some or all of the prepetition Trade Claims of Trade Creditors in full; provided that the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable between the Petition Date and the date that a final order on the Motion is entered, in an aggregate amount not to exceed $18.0 million, unless otherwise ordered by this Court; and in all cases subject to the following:

(a) The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to this Interim Order.

(b) Before making a payment to a creditor under this Interim Order, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for

less than their face amount without further notice or hearing.

2. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code.

3. The Debtors are authorized, but not directed, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice; *provided* that such actions are in compliance with, and not prohibited by, the terms of the DIP Orders (as defined below) and other documentation governing the Debtors' use of cash collateral and postpetition financing facilities, including, without limitation, the DIP Credit Agreement (as defined in the DIP Orders).

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are further authorized, but not directed, to issue postpetition checks, or to effect postpetition funds transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders).

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

10. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

11. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

12. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

13. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

14. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

15. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "J"

Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 4**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs in the ordinary course of business as provided in the Motion and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations, including processing and administrative fees, on account of the Compensation and Benefits Programs in amounts not to exceed $2,665,614 in the aggregate on an interim basis; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay or honor any prepetition obligations on account of the Non-Insider Employee Incentive Programs.

3. Payments for prepetition obligations on account of Compensation or Paid Time Off each shall not exceed the statutory caps set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

4. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

5. The Debtors are authorized, but not directed, to continue to administer the Compensation and Benefits Programs in the ordinary course of business; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay any obligations arising under the Non-Insider Employee Incentive Programs.

6. The Debtors are authorized, but not directed, to modify, change, and discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

7. Nothing herein shall be deemed to (a) authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code, including any bonus or severance obligations, or (b) authorize the Debtors to cash out unpaid Paid Time Off upon termination of an Employee, unless applicable nonbankruptcy law requires such payment; provided that nothing in this Interim Order shall prejudice the Debtors' ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

8. Each of the Banks at which the Debtors maintain their accounts relating to the payment of obligations on account of the Compensation and Benefits Programs are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of obligations in connection with the Compensation and Benefits Programs as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

10. The payroll processors are authorized to honor and pay all checks presented for payment and electronic payment requests relating to the Compensation and Benefits Programs to the extent directed by the Debtors in accordance with this Interim Order, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

11. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively,

the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-debtor affiliate except as permitted by the Budget.

12. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

13. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

15. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

16. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

17. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)**

and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

18. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

19. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "K"

Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief

(See attached)

Docket #0086 Date Filed: 06/16/2020

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
SKILLSOFT CORPORATION, *et al.*[1]	)	Case No. 20-11532 (MFW)
	)	(Jointly Administered)
Debtors.	)	**Re: Docket No. 19**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (IV) MODIFYING AUTOMATIC STAY, (V) SCHEDULING FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") in the above captioned chapter 11 cases (collectively, the "**Cases**") for entry of an interim order (this "**Interim Order**"), pursuant to sections 105, 361, 362, 363, 364, 507, and 552 of title 11 of the United States Code (as amended, the "**Bankruptcy Code**"), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rules 2002-1(b), 4001-2, 9006-1, and 9013 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), seeking entry of this interim order (this "**Interim Order**") and:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion or the DIP Credit Agreement (defined below), as applicable.

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(i) authorizing Skillsoft Corporation, in its capacity as borrower (the "**Borrower**"), to obtain postpetition financing consisting of a senior secured super-priority term loan credit facility in the aggregate amount of $60,000,000 (such facility, the "**DIP Facility**" and the loans thereunder, the "**DIP Loans**") and authorizing each of the other Debtors (the "**Guarantors**") to guarantee unconditionally, on a joint and several basis, the Borrower's obligation in connection with the DIP Facility, each in accordance with the terms and conditions set forth in the DIP Credit Agreement (defined below) and the terms and conditions set forth in the DIP Documents (defined below), upon entry of the Interim Order and subject to the terms of the Final Order (as defined in the DIP Credit Agreement);

(ii) authorizing the Debtors to enter into that certain Senior Secured Super-Priority Debtor-In-Possession Credit Agreement substantially in the form attached hereto as **Exhibit 2**, among Pointwell Limited, a corporation organized under the laws of Ireland, as parent, the Borrower, the Lenders party thereto (in such capacity, collectively, the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as Administrative Agent (in such capacity, the "**DIP Administrative Agent**"), Collateral Agent (in such capacity, the "**DIP Collateral Agent**" and, together with the DIP Administrative Agent, the "**DIP Agent**"), and Escrow Agent (in such capacity, the "**DIP Escrow Agent**" and, together with the DIP Administrative Agent, the DIP Collateral Agent and the DIP Lenders, the "**DIP Secured Parties**") (as the same may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**" and, together with the schedules and exhibits attached thereto, this Interim Order, the Final Order, and all agreements, documents, and instruments delivered or executed in connection therewith (including the Fee Letter (as defined in the DIP Credit Agreement) executed by the Borrower in connection with the DIP Facility, and

other guarantee and security documentation, collectively, the "**DIP Documents**"), and to perform such other and further acts as may be required in connection with the DIP Documents;

(iii) authorizing the Debtors to use the DIP Loans, the proceeds thereof, and the Prepetition Collateral (defined below), including Cash Collateral (defined below), in accordance with the Initial Approved Budget (as defined in the DIP Credit Agreement and attached hereto as **Exhibit 1**) (subject to the permitted variances set forth in the DIP Credit Agreement), and subsequently Approved Budgets, to provide working capital for, and for the other general corporate purposes of, the Debtors, including chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, Adequate Protection Payments (defined below), and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented through the Cases in accordance with the RSA (as defined in the DIP Credit Agreement);

(iv) granting adequate protection to the Prepetition Secured Parties (defined below) to the extent of any Diminution in Value (defined below) of their interests in the Prepetition Collateral;

(v) granting to the DIP Agent, for the benefit of the DIP Secured Parties to secure the DIP Obligations (defined below), valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on, and senior security interests in, all of the DIP Collateral (defined below), subject only to (x) the Carve Out (defined below) and (y) other valid, perfected and unavoidable liens (other than the Prepetition Liens (defined below)) that are senior to the Prepetition Liens, if any, existing as of the Petition Date (or perfected after the Petition Date to the

extent permitted by section 546(b) of the Bankruptcy Code) on the terms and conditions set forth herein and in the DIP Documents (any such liens, the "**Existing Senior Liens**");[3]

(vi) granting superpriority administrative expense claims against each of the Debtors' estates to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders with respect to the DIP Obligations (defined below) with priority over any and all administrative expenses of any kind or nature and subject and subordinate only to the payment of the Carve Out on the terms and conditions set forth herein and in the DIP Documents;

(vii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, waiving certain of the Debtors' and the Debtors' estates' right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code;

(viii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, providing that the "equities of the case" exception under section 552(b) of the Bankruptcy Code not apply to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable;

(ix) pursuant to Bankruptcy Rule 4001, holding an interim hearing (the "**Interim Hearing**") on the Motion before this Court to consider entry of this Interim Order to, among other things, (1) authorize the Borrower to, on an interim basis, borrow from the DIP Lenders a principal amount of $60,000,000 in DIP Loans, (2) authorize the Guarantors to guaranty the DIP Obligations, (3) authorize the Debtors' use of Prepetition Collateral (including Cash

[3] Nothing in this Interim Order shall constitute a finding or ruling by this Court that any such prepetition liens are valid, senior, perfected, and/or unavoidable. Moreover, nothing in this Interim Order shall prejudice the rights of any party in interest including, but not limited to, the Debtors, the DIP Secured Parties, and/or the Committee to challenge the validity, priority, perfection and extent of any such prepetition liens.

Collateral), (4) grant the adequate protection described in this Interim Order, and (5) authorize the Debtors to execute and deliver the DIP Documents to which they are a party and to perform their respective obligations thereunder and such other and further acts as may be necessary or appropriate in connection therewith;

(x) scheduling a final hearing (the "**Final Hearing**") within twenty-five (25) days of the Petition Date to consider the relief requested in the Motion and the entry of the Final Order;

(xi) approving the form of notice with respect to the Final Hearing; and

(xii) granting related relief.

This Court having considered the Motion, the exhibits thereto, the *Declaration of John Frederick in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), the *Declaration of Christopher A. Wilson in Support of the Debtors' Motion for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Wilson Declaration**"), and the other evidence submitted or adduced and the arguments of counsel made at the Interim Hearing held pursuant to Bankruptcy Rule 4001(b)(2) on June 16, 2020; and this Court having heard and resolved or overruled on the merits any objections, reservations of rights, or other statements with respect to the relief requested in the Motion; and this Court having noted the appearances of parties in interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and the Debtors having provided notice of the Motion as set forth in the Motion, and it appearing that

no other or further notice of the Motion need be given; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[4]

A. *Petition Date*. On June 14, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware commencing these Cases.

B. *Debtors in Possession*. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

C. *Jurisdiction and Venue*. The Court has jurisdiction over the Motion, these Cases, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Venue for these Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Court may enter a final order consistent with Article III of the United States Constitution.

D. *Committee*. As of the date hereof, no official committee of unsecured creditors has been appointed in these Cases pursuant to section 1102 of the Bankruptcy Code (any such committee, the "**Committee**").

[4] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law, pursuant to Bankruptcy Rules 7052 and 9014.

E. *Debtors' Stipulations*. Without prejudice to the rights of parties in interest with standing other than the Debtors, but subject to the limitations thereon contained in Paragraphs 12 and 26 of this Interim Order, the Debtors represent, admit, stipulate, and agree (subsections (i) through (v) below, collectively, the "**Debtors' Stipulations**") that:

(i) *Prepetition Indebtedness*.

(a) The Prepetition First Lien Lenders (defined below), under that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Credit Agreement**" and, together with the "Credit Documents" (as defined in the Prepetition First Lien Credit Agreement), the "**Prepetition First Lien Credit Documents**"; the term loans issued under the Prepetition First Lien Credit Agreement, the "**Prepetition First Lien Term Loans**"; the revolving loans issued thereunder, the "**Prepetition First Lien Revolving Loans**" and, together with the Prepetition First Lien Term Loans, the "**Prepetition First Lien Debt**"), by and among among Evergreen Skills Intermediate Lux S.à r.l. ("**Holdings**"), Evergreen Skills Lux S.à r.l. (the "**Lux Borrower**"), the Borrower, Skillsoft Canada, Ltd. (the "**Canadian Borrower**"; the Lux Borrower, the Borrower, and the Canadian Borrower collectively, the "**First Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition First Lien Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (the "**Prepetition First Lien Administrative Agent**") and collateral agent (the "**Prepetition First Lien Collateral Agent**" and, together with the Prepetition First Lien Administrative Agent, the "**Prepetition First Lien Agent**"; the Prepetition First Lien Agent together with the Prepetition First Lien Lenders, the "**Prepetition First Lien Secured Parties**"), and the other parties thereto from time to time, provided the First Lien Borrowers with Prepetition First Lien Term Loans in the aggregate

principal amount of $900,000,000 and commitments for Prepetition First Lien Revolving Loans in the aggregate principal amount of $100,000,000.

(b) The Prepetition Second Lien Lenders (defined below), under that certain Second Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Credit Agreement**" and, together with the Prepetition First Lien Credit Agreement, the "**Prepetition Credit Agreements**"; the "**Credit Documents**" (as defined in the Prepetition Second Lien Credit Agreement), the "**Prepetition Second Lien Credit Documents**" and, together with the Prepetition First Lien Credit Documents, the "**Prepetition Credit Documents**"; the term loans issued under the Prepetition Second Lien Credit Agreement, the "**Prepetition Second Lien Term Loans**" and, together with the Prepetition First Lien Debt, the "**Prepetition Indebtedness**"), by and among among Holdings, Evergreen Skills Lux S.à r.l., the Lux Borrower, the Borrower (the Lux Borrower together with the Borrower, the "**Second Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition Second Lien Lenders**" and, together with the Prepetition First Lien Lenders, the "**Prepetition Secured Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (in such capacity, the "**Prepetition Second Lien Administrative Agent**") and collateral agent (in such capacity, the "**Prepetition Second Lien Collateral Agent**" and, together with the Prepetition Second Lien Administrative Agent, the "**Prepetition Second Lien Agent**"; the Prepetition Second Lien Agent together with the Prepetition First Lien Agent, the "**Prepetition Agents**"; the Prepetition Agents together with the DIP Agent and the DIP Escrow Agent, the "**Agents**"); the Prepetition Second Lien Agent together with the Prepetition Second Lien Lenders, the "**Prepetition Second Lien Secured Parties**"; the Prepetition Second Lien Secured Parties together with the Prepetition First Lien Secured Parties,

the "**Prepetition Secured Parties**"), and the other parties thereto from time to time, provided the Second Lien Borrowers with Prepetition Second Lien Term Loans in the aggregate principal amount of $485,000,000.

(c) On September 30, 2014, pursuant to the terms of that certain Amended and Restated First Lien Joinder Agreement and an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers obtained $465,000,000 in New Term Loans (as defined in the Prepetition First Lien Credit Agreement).

(d) On September 30, 2014, pursuant to the terms of that certain Amended and Restated Second Lien Joinder Agreement and an amendment to the Prepetition Second Lien Credit Agreement, the Second Lien Borrowers obtained $185,000,000 in New Term Loans (as defined in the Prepetition Second Lien Credit Agreement).

(e) On August 24, 2018, pursuant to an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers reduced the aggregate Revolving Credit Commitments of all Revolving Credit Lenders (each as defined in the Prepetition First Lien Credit Agreement) from $100,000,000 to $90,000,000.

(f) On or about March 27, 2019 the Company (i) prepaid $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Loans and (ii) terminated $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Commitments (each as defined in the Prepetition First Lien Credit Agreement) thereby reducing the First Lien Borrowers' obligations pursuant to the Prepetition First Lien Credit Agreement from $90,000,000 to $80,000,000.

(g) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition First Lien Secured

Parties pursuant to the Prepetition First Lien Credit Documents, for Prepetition First Lien Term Loans in the aggregate principal amount of approximately $1,290,000,000 and Prepetition First Lien Revolving Loans in the aggregate principal amount of approximately $79,500,000, *plus*, with respect to each, accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition First Lien Credit Agreement) owing under the Prepetition First Lien Credit Documents (collectively, the "**Prepetition First Lien Obligations**").

(h) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition Second Lien Secured Parties pursuant to the Prepetition Second Lien Credit Documents, for Prepetition Second Lien Term Loans in the aggregate principal amount of approximately $670,000,000 *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition Second Lien Credit Agreement) owing under the Prepetition Second Lien Credit Documents (collectively, the "**Prepetition Second Lien Obligations**" and, together with the Prepetition First Lien Obligations, the "**Prepetition Obligations**").

(ii) *Prepetition Indebtedness Collateral*.

(a) In connection with the Prepetition First Lien Credit Agreement, the Debtors entered into that certain First Lien Security Agreement, dated as of April 28, 2014 (as

amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Security Agreement**"), by and between the First Lien Borrowers, the other Credit Parties (as defined in the Prepetition First Lien Credit Agreement) party thereto, and the Prepetition First Lien Collateral Agent. Pursuant to the Prepetition First Lien Security Agreement and the other Prepetition First Lien Credit Documents, the Prepetition First Lien Obligations are secured by valid, binding, perfected first-priority security interests in and liens (the "**Prepetition First Lien Revolving and Term Loan Liens**") on the "Collateral" (the "**Prepetition Collateral**"), as defined in the Prepetition First Lien Security Agreement, consisting of substantially all of the Debtors' assets, except as may be set forth in the Prepetition First Lien Security Agreement.

(b) In connection with the Prepetition Second Lien Credit Agreement, the Debtors entered into that certain Second Lien Security Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Security Agreement**" and, together with the Prepetition First Lien Security Agreement, the "**Prepetition Security Agreements**"), by and between the Second Lien Borrowers, the other Credit Parties (as defined in the Prepetition Second Lien Credit Agreement) party thereto, and the Prepetition Second Lien Collateral Agent. Pursuant to the Prepetition Second Lien Security Agreement and the other Prepetition Second Lien Credit Documents, the Prepetition Second Lien Obligations are secured by valid, binding, perfected second-priority security interests in and liens (the "**Prepetition Second Lien Term Loan Liens**" and, together with the Prepetition First Lien Revolving and Term Loan Liens, the "**Prepetition Liens**") on the Prepetition Collateral.

(iii) *Cash Collateral*. Any and all of the Debtors' cash, including (i) amounts on deposit or maintained in any account or accounts by the Debtors, (ii) any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral existing as of the Petition Date, and (iii) the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of Bankruptcy Code section 363(a) (the "**Cash Collateral**").

(iv) *Bank Accounts*. The Debtors acknowledge and agree that as of the Petition Date, none of the Debtors has either opened or maintains any bank accounts other than the accounts listed in the exhibit attached to any order authorizing the Debtors to continue to use the Debtors' existing cash management system (the "**Cash Management Order**").

(v) *Validity, Perfection, and Priority of Prepetition Liens and Prepetition Obligations*. Subject to the Challenge Period (defined below), each of the Debtors acknowledges and agrees that: (A) as of the Petition Date, the Prepetition Liens are valid, binding, enforceable, non-avoidable, and properly perfected liens on and security interests in the Prepetition Collateral; (B) as of the Petition Date, the Prepetition Liens are subject and/or subordinate only to valid, perfected, and unavoidable liens and security interests existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; (C) the Prepetition Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors; (D) no offsets, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Obligations exist, and no portion of the Prepetition Liens or Prepetition Obligations is subject to any challenge or defense including impairment, set-off, right of recoupment, avoidance, attachment, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (whether equitable or otherwise), attack, offset, defense, counterclaims, cross-claims, or "claim" (as defined in the

Bankruptcy Code), pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (E) the Debtors and their estates have no claims, objections, challenges, causes of actions, recoupments, counterclaims, cross-claims, setoff rights, and/or choses in action, including "lender liability" causes of action or avoidance claims under chapter 5 of the Bankruptcy Code, whether arising under applicable state law or federal law (including any recharacterization, subordination, avoidance, disgorgement, recovery, or other claims arising under or pursuant to sections 105, 510, or 542 through 553 of the Bankruptcy Code), against the Prepetition Agents, the Prepetition Secured Parties, or any of their respective affiliates, agents, representatives, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon, or related to the Prepetition Indebtedness under the Prepetition Credit Documents, the Prepetition Obligations, or the Prepetition Liens; provided, however, that notwithstanding anything to the contrary in this Interim Order, the Debtors do not agree or acknowledge that the Prepetition Liens are perfected on cash in any accounts with institutions that are not the Prepetition Agents or Prepetition Secured Parties.

F. *Findings Regarding the DIP Facility and Use of Cash Collateral*.

(i) The Debtors have an immediate need to obtain the funds available under the DIP Facility and to use Cash Collateral (solely to the extent consistent with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents)) to, among other things, (A) permit the orderly continuation of their businesses; (B) make certain Adequate Protection Payments; and (C) pay the costs of administration of their estates and satisfy their other working capital and general corporate purposes during the pendency of these Cases. Specifically, the proceeds of the DIP Loans will provide the Debtors with the ability to fund day-to-day operations and meet administrative obligations during the Cases. The DIP Facility will

also reassure the Debtors' customers and employees that the Debtors will have access to additional liquidity to meet their commitments during the Cases and that the Debtors' businesses will continue as a going concern post-emergence. The ability of the Debtors to obtain sufficient working capital and liquidity through the incurrence of the new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the Debtors' going concern value and successful reorganization. The Debtors will not have sufficient sources of working capital and financing to operate their businesses in the ordinary course of business throughout the Cases without access to the DIP Facility and authorized use of Cash Collateral.

(ii) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code for the purposes set forth in the DIP Documents without the Debtors granting to the DIP Secured Parties, subject to the Carve Out as provided for herein, the DIP Liens (defined below) and the DIP Superpriority Claims (defined below) under the terms and conditions set forth in this Interim Order and the DIP Documents.

(iii) The DIP Facility has been negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties, and all of the Debtors' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Documents including, without limitation, all loans made to and guarantees issued by the Debtors pursuant to the DIP Documents and all other obligations under the DIP Documents (collectively, the "**DIP Obligations**") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon

the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and the DIP Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, and any liens or claims granted to, or payments made to, the DIP Agent, the DIP Escrow Agent, or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(iv) *Sections 506(c) and 552(b)*. In light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, the Prepetition Secured Parties are entitled to the rights and benefits of section 552(b) of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, (i) a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code and (ii) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(v) *Consent by Prepetition Agents*. The Prepetition First Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition First Lien Credit Agreement (the "**Required Prepetition First Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition First Lien Secured Parties, and the Prepetition Second Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition Second Lien Credit Agreement (the "**Required Prepetition Second Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition Second Lien Secured Parties, have consented to, conditioned on the entry of this Interim Order, the Debtors' incurrence of the DIP Facility and proposed use of Cash Collateral on the terms and

conditions set forth in this Interim Order and the terms of the adequate protection provided for in this Interim Order, including that the Adequate Protection Liens and Adequate Protection Superpriority Claims are subject and subordinate to the Carve Out.

G. *Good Cause Shown; Best Interest*. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing business and enhance the Debtors' prospects for a successful reorganization. Absent granting the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed.

H. *Notice*. In accordance with Bankruptcy Rules 2002, 4001(b) and (c), and 9014, and the Local Rules, notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors. Under the circumstances, the notice given by the Debtors of the Motion, the relief requested herein, and of the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b) and (c), and 9014 and applicable Local Rules.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. DIP Financing Approved. The Motion is granted on an interim basis as set forth herein, and the use of Cash Collateral on an interim basis is authorized, subject to the terms of this Interim Order.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of the Interim Order, to the extent not withdrawn or resolved, are overruled on the merits. This Interim Order shall become effective immediately upon its entry.

3. Authorization of the DIP Facility and the DIP Documents.

(a) The Debtors are hereby immediately authorized and empowered to enter into, and to execute and deliver, the DIP Documents, and such additional documents, instruments, certificates and agreements as may be reasonably required or requested by the DIP Secured Parties to implement the terms or effectuate the purposes of this Interim Order and the DIP Documents. To the extent not entered into as of the date hereof, the Debtors and the DIP Secured Parties shall negotiate the DIP Documents in good faith, and in all respects such DIP Documents shall be consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent, the DIP Escrow Agent, and the Required Lenders (as defined in the DIP Credit Agreement, the "**Required DIP Lenders**"). Upon entry of this Interim Order and until execution and delivery of the DIP Credit Agreement and the other DIP Documents, the Debtors and the DIP Secured Parties shall be bound by (x) the terms and conditions and other provisions set forth in the executed DIP Documents, and (y) this Interim Order, which shall govern and control the DIP Facility. Upon entry of this Interim Order, the Interim Order, the DIP Credit Agreement, and other DIP Documents shall govern and control the DIP Facility. The DIP Agent and the DIP Escrow Agent are hereby authorized to execute and enter into its respective obligations under the DIP Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Documents shall constitute valid and binding obligations of the Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the Motion, the DIP Documents, and this Interim Order, the terms and conditions of this Interim Order shall govern and control. To the extent there is a conflict between the terms and conditions of the Motion and the DIP Documents, the terms and conditions of the DIP Documents shall govern.

(b) Upon entry of this Interim Order, the Borrower is hereby authorized to borrow, and the Guarantors are hereby authorized to guaranty, borrowings up to an aggregate principal amount of $60,000,000 in DIP Loans into an escrow account, of which up to $30,000,000 in DIP Loans may be drawn prior to entry of the Final Order, subject to and in accordance with the terms of this Interim Order and the DIP Documents.

(c) The proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Documents and this Interim Order, and in accordance with the Approved Budget, subject to permitted variances as set forth in this Interim Order and the DIP Documents. Attached as **Exhibit 1** hereto and incorporated herein by reference is the Initial Approved Budget prepared by the Debtors and approved by the Required DIP Lenders in accordance with Section 9.18 of the DIP Credit Agreement.

(d) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Documents including, without limitation:

(1) the execution, delivery, and performance of the DIP Documents, including, without limitation, the DIP Credit Agreement, any guaranty, security and pledge agreement, and any mortgage to the extent contemplated thereby;

(2) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Documents (in each case in accordance with the terms of the applicable DIP Documents and in such form as the

Debtors, the DIP Agent, the DIP Escrow Agent (if applicable), and the Required DIP Lenders may agree), it being understood that (i) no further approval of the Court shall be required for amendments, waivers, consents, or other modifications to and under the DIP Documents or the DIP Obligations that do not shorten the maturity of the extensions of credit thereunder or modify the commitments or the rate of interest or other amounts payable thereunder and (ii) any such amendments, waivers, consents or modifications to the DIP Documents shall be provided to the U.S. Trustee and the Committee (if any);

(3) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees and expenses referred to in the DIP Documents, including (x) all fees and other amounts owed to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders and (y) all reasonable and documented costs and expenses as may be due from time to time, including, without limitation, the reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Documents (whether incurred before or after the Petition Date, including, for the avoidance of doubt, (a) the Specified Lender Advisors; (b) the Crossholder Lender Advisors; and (c) the Agent Advisors (each, as defined in the DIP Credit Agreement), and, solely to the extent necessary to exercise its rights and fulfill its obligations under the DIP Documents, one counsel to the DIP Agent in each local jurisdiction, which such fees and expenses shall not be subject to the approval of the Court, nor shall any recipient of any such payment be required to file with respect thereto any interim or final fee application with the Court provided that any fees and expenses of a professional shall be subject to the provisions of Paragraph 18 of this Interim Order; and

(4) the performance of all other acts required under or in connection with the DIP Documents.

(e) Upon entry of this Interim Order, the DIP Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Debtors enforceable against each Debtor party thereto in accordance with their respective terms and the terms of this Interim Order for all purposes during the Cases, any subsequently converted Case of any Debtor to a case under chapter 7 of the Bankruptcy Code or after the dismissal of any Case. No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Documents, or this Interim Order shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (a) to or on behalf of the DIP Agent or the DIP Escrow Agent on behalf of any DIP Secured Parties or (b) to or on behalf of the Prepetition Secured Parties, in each case pursuant to the DIP Documents, the provisions of this Interim Order, or any subsequent order of this Court, shall be received free and clear of any claim, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code (and, solely in the case of waivers of rights under sections 506(c) and 552(b) of the Bankruptcy Code, subject to the entry of the Final Order approving such waivers).

(f) The Guarantors are hereby authorized and directed to jointly, severally, and unconditionally guarantee, and upon entry of this Interim Order shall be deemed to have guaranteed, in full, all of the DIP Obligations.

4. Budget and Variance Reporting. The Initial Approved Budget is attached hereto as **Exhibit 1** and each updated, modified, or supplemented budget shall be in form and substance satisfactory to the Required DIP Lenders (it being acknowledged and agreed that the Initial Approved Budget attached to this Interim Order is approved by and satisfactory to the Required DIP Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of the DIP Credit Agreement, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required DIP Lenders may be communicated via an email from either of the Specified Lender Advisors). The Approved Budget shall be updated, modified or supplemented by the Debtors from time to time in writing transmitted to the DIP Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required DIP Lenders (with a copy of such written consent or request concurrently delivered to the DIP Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week following entry of this Interim Order, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required DIP Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required DIP Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required DIP Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required DIP Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period covered by the prior approved Approved Budget has terminated (and at all times thereafter

such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required DIP Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Commencing on July 16, 2020, on or before 5:00 p.m. (Eastern Standard Time) on the Thursday of every other week, the Borrower shall deliver to the DIP Agent and the Specified Lender Advisors (for distribution to the DIP Lenders) an Approved Budget Variance Report (as defined in the DIP Credit Agreement), which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period (as defined in the DIP Credit Agreement), be in a form satisfactory to the Required DIP Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors) and include all materials required by, and be otherwise consistent with, Section 9.18(c) of the DIP Credit Agreement.

5. Access to Records. Upon request, the Debtors shall provide the Specified Lender Advisors and the Crossholder Lender Advisors with all reporting and other information required to be provided to the DIP Agent under the DIP Documents, subject to the same limitations set forth therein. In addition to, and without limiting whatever rights to access the DIP Secured Parties have under the DIP Documents, upon reasonable notice to Debtors' counsel (e-mail being sufficient), at reasonable times and during normal business hours, the Debtors shall permit representatives, agents, and employees of the DIP Secured Parties to have access to (i) inspect the Debtors' assets, and (ii) all information (including historical information and the Debtors' books and records) and personnel, including regularly scheduled meetings as mutually agreed with the senior management of the Debtors and other company advisors (during normal business hours), and provide the DIP Secured Parties with access to all information they shall reasonably request, excluding any information for which confidentiality is owed to third parties, information subject

to attorney client or similar privilege, or where such disclosure would not be permitted by any applicable law, in each case as set forth in the DIP Documents.

6. DIP Superpriority Claims. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against each of the Debtors' estates (the "**DIP Superpriority Claims**") (without the need to file any proof of claim) with priority over any and all administrative expenses, adequate protection claims, diminution claims (if any), and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise, which allowed claims shall for the purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code and which shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof, including, without limitation, subject to authorization in the Final Order, any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code (such claims and causes of action, the "**Avoidance Actions**" and, the proceeds thereof and the property recovered with respect thereto, collectively, the "**Avoidance Proceeds**"), if any, subject only to, and subordinated in all respects to, the payment of the Carve Out.

7. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the

Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements, or the possession or control by the DIP Agent, the DIP Escrow Agent, or any DIP Lender of, or over, any DIP Collateral, the following security interests and liens are hereby granted by the Debtors to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause (a) and (b) below being collectively referred to as the "**DIP Collateral**"), subject only to (x) the Carve Out and (y) the Existing Senior Liens (all such liens and security interests granted to the DIP Collateral Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**"):

(a) First Priority Lien On Any Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) (collectively, the "**Previously Unencumbered Property**") (subject to the Carve Out), including, without limitation (in each case, to the extent not subject to valid, perfected, and non-avoidable liens), an equity pledge of any first-tier foreign subsidiaries of the Debtors, unencumbered cash constituting property of the Debtors (whether maintained with the DIP Agent, the DIP Escrow Agent, or otherwise) and any investment of such cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, accounts receivable, receivables and receivables records, general intangibles, payment intangibles,

tax or other refunds, insurance proceeds, letters of credit, contracts, owned real estate, real property leaseholds, fixtures, deposit accounts, commercial tort claims, securities accounts, instruments, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, real property, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each Debtor, other equity or ownership interests (including equity interests in subsidiaries of each Debtor), money, investment property, intercompany claims, claims arising on account of transfers of value from a Debtor to (x) another Debtor and (y) a non-Debtor affiliate incurred on or following the Petition Date, causes of action, including causes of action arising under section 549 of the Bankruptcy Code (but excluding all other Avoidance Actions), all products and proceeds of the foregoing and, subject to entry of the Final Order granting such relief, the Avoidance Proceeds; provided that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(b) Liens Priming the Prepetition Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all property of the Debtors that was subject to the Prepetition Liens (subject to the Carve Out) including, without limitation, the Prepetition Collateral and Cash Collateral; provided that such liens shall be immediately junior to any valid, perfected, and unavoidable liens, if any, existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; provided,

further, that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(c) Validity, Enforceability. The DIP Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, "**Successor Cases**"). Except as expressly provided herein with respect to the Carve Out and Existing Senior Liens, if any, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the DIP Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The DIP Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, the DIP Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the DIP Liens shall be deemed legal, valid, binding, enforceable, and perfected first-priority liens (subject only to the Carve Out and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

8. Adequate Protection for the Prepetition Secured Parties. Subject only to the Carve Out and the terms of this Interim Order, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, as adequate protection of their interests in the Prepetition Collateral (including Cash Collateral), solely for and equal in amount to the aggregate postpetition diminution in value of such interests (if any) (each such diminution, a "**Diminution in Value**"), resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, subordination to the Carve Out, the Debtors' use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Agents, for the benefit of themselves and the other Prepetition Secured Parties, are hereby granted the following (collectively, the "**Adequate Protection Obligations**"):

(a) Adequate Protection Liens.

(1) First Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition First Lien Secured Parties in the Prepetition Collateral, to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition First Lien Collateral Agent, for the benefit of itself and each of the Prepetition First Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, effective and automatically perfected postpetition security interests in and liens

(together, the "**First Lien Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the First Lien Adequate Protection Liens shall be subordinate only to (A) the Carve Out, (B) the DIP Liens, and (C) Existing Senior Liens, if any. The First Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The First Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, and the Existing Senior Liens, if any, the First Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the First Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The First Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the First Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the First Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected second-priority liens (subject only to the Carve Out, the DIP Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(2) Second Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition Second Lien Secured Parties in the Prepetition Collateral to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition Second Lien Collateral Agent, for the benefit of itself and each of the Prepetition Second Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, and effective and automatically perfected postpetition security interests in and liens (together, the "**Second Lien Adequate Protection Liens**" and, together with the First Lien Adequate Protection Liens, the "**Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the Second Lien Adequate Protection Liens shall be subordinate only to the (A) Carve Out, (B) the DIP Liens, (C) the First Lien Adequate Protection Liens, (D) the Prepetition First Lien Revolving and Term Loan Liens, and (E) Existing Senior Liens, if any. The Second Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The Second Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or

any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any, the Second Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the Second Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The Second Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the Second Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the Second Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected third-priority liens (subject only to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(b) Adequate Protection Superpriority Claims.

(1) First Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition First Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (if any) (the "**First Lien Adequate Protection Superpriority Claims**"), but junior to the Carve Out and the DIP Superpriority Claims. Subject

to the Carve Out and the DIP Superpriority Claims in all respects, the First Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code and the Second Lien Adequate Protection Claims. The Prepetition First Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the First Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders, in each case as provided in the DIP Documents.

(2) Second Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition Second Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (the "**Second Lien Adequate Protection Superpriority Claims**" and, together with the First Lien Adequate Protection Superpriority Claims, the "**Adequate Protection Superpriority Claims**"), but junior to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims. Subject to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims in all respects, the Second Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the

Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code. The Prepetition Second Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the Second Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations and the First Lien Adequate Protection Superpriority Claims have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders and the Prepetition First Lien Secured Parties, in each case as provided in the DIP Documents.

(c) Adequate Protection Payments. As further adequate protection, the Debtors are authorized and directed to pay, in accordance with the terms of Paragraph 18 of this Interim Order, all reasonable and documented out-of-pocket fees and expenses (the "**Adequate Protection Fees**"), whether incurred before or after the Petition Date, including all reasonable and documented out-of-pocket fees and expenses of the Prepetition Agents and for the counsel and other professionals retained as provided for in the DIP Documents and this Interim Order, including, for the avoidance of doubt, of (A) the Specified Lender Advisors, (B) the Crossholder Lender Advisors, (C) the Agent Advisors, and (D) solely to the extent necessary to exercise and fulfill their obligations under the Prepetition Credit Documents, one counsel to the Prepetition Agents in each local jurisdiction (all payments referenced in this sentence, collectively, the "**Adequate Protection Payments**"). None of the Adequate Protection Fees shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall

be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(d) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Debtors or any other party to contest such request, and the Debtors' rights to object to the same are expressly preserved.

(e) Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified to the extent necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant and allow the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agent, the Required DIP Lenders, the Prepetition Agents, the Required Prepetition First Lien Lenders or the Required Prepetition Second Lien Lenders may request in their respective reasonable discretions to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Agents, the DIP Secured Parties, and the Prepetition Secured Parties under this Interim Order; and (d) subject to the Carve Out, authorize the Debtors to make, and the Agents, the DIP Secured Parties, and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order; provided that, during the Remedies Notice Period (defined below), the automatic stay under section 362 of the Bankruptcy Code (to the extent applicable) shall remain in effect.

9. Carve Out.

(a) Priority of Carve Out. Subject to the terms and conditions contained in this Paragraph 9, each of the DIP Liens, DIP Superpriority Claims, Prepetition Liens, Adequate Protection Liens, and Adequate Protection Superpriority Claims shall be subject and subordinate to the Carve Out. The Carve Out shall have such priority over all assets of the Debtors, including any DIP Collateral, Prepetition Collateral, and any funds in the Loan Proceeds Account (as defined in the DIP Credit Agreement).

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in clause (iii) below); (ii) all reasonable and documented out-of-pocket fees and expenses up to $75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all reasonable and documented unpaid out-of-pocket fees and expenses (collectively, the "**Allowed Professional Fees**") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**") incurred at any time before or on the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of a Carve Out Trigger Notice (defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed

$3,000,000 incurred after the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of the Carve Out Trigger Notice (the "**Termination Declaration Date**"), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "**Post-Carve Out Trigger Notice Cap**"). For purposes of the foregoing, "**Carve Out Trigger Notice**" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent (at the direction of Required DIP Lenders) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and counsel to the Committee, if any, which notice shall be delivered following (i) the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked or (ii) the occurrence of a Maturity Date (as defined in the DIP Credit Agreement), other than clauses (a), (c), or (d) of the definition of "Maturity Date" in the DIP Credit Agreement (the "**Specified Maturity Date**").

(c) Carve Out Reserves. On the Termination Declaration Date, the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the then unpaid amounts (including the good-faith estimated and reasonable Professional Fees accrued and not yet invoiced) of the Allowed Professional Fees (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such

then unpaid Allowed Professional Fees (the "**Pre-Carve Out Trigger Notice Reserve**") prior to any and all other claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "**Post-Carve Out Trigger Notice Reserve**" and, together with the Pre-Carve Out Trigger Notice Reserve, the "**Carve Out Reserves**") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such DIP Lenders, notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Debtors to satisfy any or all of the conditions precedent for DIP Loans under the DIP Facility, any termination of the DIP Obligations following an Event of Default, or the occurrence of the Maturity Date, each DIP Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such DIP Lender's pro rata share with respect to such borrowing in accordance with the DIP Facility. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above

(the "**Pre-Carve Out Amounts**"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "**Post-Carve Out Amounts**"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this Paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this Paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Agents, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent, the DIP Escrow Agent and the Prepetition Agents shall not sweep or foreclose on cash (including cash received as a result of the sale or other

disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute DIP Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any facility pursuant to Prepetition Credit Agreements, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(e) No Direct Obligation to Pay Allowed Professional Fees. None of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, the DIP Escrow Agent, the DIP

Lenders, or the Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall otherwise be entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

10. Reserved.

11. Reservation of Rights of the DIP Agent, DIP Escrow Agent, DIP Lenders, and Prepetition Secured Parties. Subject in all cases to the Carve Out, notwithstanding any other provision in this Interim Order or the DIP Documents to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (a) any of the rights of any of the Prepetition Secured Parties to seek any other or supplemental relief in respect of the Debtors including the right to seek additional adequate protection at and following the Final Hearing; provided that any such further or different adequate protection shall at all times be subordinate and junior to the Carve Out and the claims and liens of the DIP Secured Parties granted under this Interim Order and the DIP Documents; (b) any of the rights of the DIP Secured Parties or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of the DIP Secured Parties or the Prepetition Secured Parties to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases, conversion of any of the

Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of the Cases, or (iii) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (c) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of any of the DIP Secured Parties or the Prepetition Secured Parties. The delay in or failure of the DIP Secured Parties and/or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies shall not constitute a waiver of any of the DIP Secured Parties' or the Prepetition Secured Parties' rights and remedies.

12. Reservation of Certain Committee and Third Party Rights and Bar of Challenges and Claims. Subject to the Challenge Period (defined below), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the Debtors' Stipulations, shall be binding upon the Debtors, their estates, and any of their respective successors in all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including, the Debtors' Stipulations, shall be binding upon all other parties in interest, including any Committee and any other person acting on behalf of the Debtors' estates, unless and to the extent that a party in interest with proper standing granted by order of the Court (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (i) before the earlier of (a) except as to any Committee, seventy-five (75) calendar days after entry of the Interim Order, (b) in the case of any such adversary proceeding or contested matter filed by any Committee, sixty (60) calendar days after the appointment of such Committee, and (c) the date of entry of an order confirming a chapter 11 plan, subject to further extension by written agreement of the Prepetition First Lien Agent (acting at the direction of the Required Prepetition First Lien Lenders) and the

Prepetition Second Lien Agent (acting at the direction of the Required Prepetition Second Lien Lenders) (in each case, a "**Challenge Period**" and the date of expiration of each Challenge Period being, a "**Challenge Period Termination Date**"); provided, however, that if, prior to the end of a Challenge Period (x) the cases are converted to chapter 7, or (y) a chapter 11 trustee is appointed, then, in each such case, the Challenge Period applicable to the chapter 7 trustee or the chapter 11 trustee shall be the time remaining under the applicable Challenge Period plus ten (10) days; (ii) seeking to avoid, object to, or otherwise challenge the findings or Debtors' Stipulations regarding: (a) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agents and the Prepetition Secured Parties; or (b) the validity, enforceability, allowability, priority, secured status, or amount of the Prepetition Obligations (any such claim, a "**Challenge**"), and (iii) in which the Court enters a final order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter. Upon the expiration of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is filed and overruled): (a) any and all such Challenges by any party (including the Committee, if any, any chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Cases) shall be deemed to be forever barred; (b) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Cases and any Successor Cases; (c) the Prepetition Indebtedness shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected secured claims, not subject to recharacterization, subordination, or avoidance; and (d) all of the Debtors' stipulations and admissions contained in this Interim Order, including the Debtors'

Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Debtors, the Debtors' estates, and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases. Furthermore, if any such adversary proceeding or contested matter is timely and properly filed under the Bankruptcy Rules, the stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Challenge Period Termination Date. Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including, without limitation, any Committee appointed in the Cases, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation any challenges (including a Challenge) with respect to the Prepetition Credit Documents, the Prepetition Liens, and the Prepetition Obligations, and a separate order of the Court conferring such standing on any Committee or other party-in-interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party-in-interest.

13. DIP Termination Date. On the DIP Termination Date (defined below), (a) all DIP Obligations shall be immediately due and payable, all commitments to extend credit under the DIP Facility will terminate; (b) all authority to use Cash Collateral shall cease; provided, however, that during the Remedies Notice Period, the Debtors may use Cash Collateral to fund the Carve Out and pay payroll and other expenses critical to the administration of the Debtors' estates strictly in accordance with the Approved Budget, subject to such variances as permitted in the DIP Credit

Agreement; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Documents in accordance with this Interim Order. For the purposes of this Interim Order, the "**DIP Termination Date**" shall mean the "**Maturity Date**" as defined in the DIP Credit Agreement.

14. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Documents, shall constitute an event of default (collectively, the "**Events of Default**"): (a) the failure of the Debtors to comply with or perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order; or (b) the occurrence of an "Event of Default" under the DIP Credit Agreement (subject to any applicable cure or grace period).

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence of and during the continuation of an Event of Default, or a Specified Maturity Date, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Remedies Notice Period, (a) the DIP Agent (at the direction of Required DIP Lenders) may declare (any such declaration shall be referred to herein as a "**Termination Declaration**") (i) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP Facility, (iii) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (iv) the application of the Carve Out through the delivery of the Carve Out Trigger Notice to the Borrower and (b) subject to Paragraph 13 above, the DIP Agent (at the

direction of Required DIP Lenders) may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of any such date a Termination Declaration is delivered and the DIP Termination Date shall be referred to herein as the "Termination Date"). The Termination Declaration shall not be effective until notice has been provided by electronic mail (or other electronic means) to counsel to the Debtors (Weil, Gotshal & Manges LLP), counsel to the Committee, if any, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) Business Days after the date a Termination Declaration is delivered (the "Remedies Notice Period"): (a) the DIP Agent (at the direction of Required DIP Lenders) shall be entitled to exercise its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations and DIP Superpriority Claims; and (b) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Credit Documents and this Interim Order with respect to the Debtors' use of Cash Collateral; provided, however, for the avoidance of doubt the Debtors may continue to use Cash Collateral in accordance with Paragraph 13 of this Interim Order during the Remedies Notice Period. During the Remedies Notice Period, the Debtors, the Committee, if any, and/or any party in interest shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court. Except as set forth in this Paragraph 15 or otherwise ordered by the Court prior to the expiration of the Remedies Notice Period, upon the expiration of the Remedies Notice Period, the Debtors shall be deemed to have waived their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Agent, the DIP Escrow

Agent, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order. Unless the Court has determined that an Event of Default has not occurred and/or is not continuing or the Court orders otherwise, the automatic stay shall automatically be terminated as to all of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties (solely with respect to the use of Cash Collateral to the extent permitted hereunder) at the expiration of the Remedies Notice Period without further notice or order, and the DIP Agent (at the direction of Required DIP Lenders) and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, and in the Prepetition Credit Documents, as applicable, or as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order.

16. Limitation on Charging Expenses Against Collateral. Subject to entry of the Final Order granting such relief, no expenses of administration of the Cases or any Successor Cases or future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Prepetition Collateral or the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. The Debtors are hereby authorized to use the Cash Collateral of the Prepetition Secured Parties, but solely for the purposes set forth in this Interim

Order and in accordance with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents) including, without limitation, to make payments on account of the Adequate Protection Obligations provided for in this Interim Order and to make any transfers between Debtors necessary to comply with the terms of the DIP Documents and this Interim Order.

18. Expenses and Indemnification.

(a) The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Documents as such amounts become due and without need to obtain further Court approval, including, without limitation, backstop, closing, arrangement or commitment fees (including all fees and other amounts owed to the DIP Lenders), the DIP Administrative Agent's fees, the DIP Collateral Agent's fees, and the DIP Escrow Agent's fees, the reasonable and documented out-of-pocket fees and disbursements of counsel and other professionals to the extent set forth in Paragraph 8(c) of this Interim Order, whether or not such fees arose before or after the Petition Date, all to the extent provided in this Interim Order or the DIP Documents. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date (as defined in the DIP Credit Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel and advisors to the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, and the Prepetition Secured Parties, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, or the Prepetition Secured Parties to first deliver a copy of its invoice as provided for herein.

(b) The Debtors shall be jointly and severally obligated to pay all fees and expenses described above, which obligations shall constitute DIP Obligations. Provided no Fee Objection (defined below) has been made, the Debtors shall pay the reasonable and documented out-of-pocket professional fees, expenses, and disbursements of professionals to the extent provided for in paragraph 8(c) of this Interim Order (collectively, the "**Lender Professionals**" and, each, a "**Lender Professional**") as soon as reasonably practicable after a ten (10) Business Days review period commencing with the receipt by counsel for the Debtors, any Committee, and the U.S. Trustee of each of the invoices therefor (the "**Invoiced Fees**" and such review period, the "**Review Period**") and without the necessity of filing formal fee applications, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of the Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege or protection, or any other evidentiary privilege or protection recognized under applicable law; provided that, upon the request of the U.S. Trustee prior to the expiration of the Review Period, the applicable Lender Professional shall provide more detailed support of the Invoiced Fees to the U.S. Trustee on a confidential basis. The Debtors, any Committee, or the U.S. Trustee (collectively, the "**Fee Notice Parties**") may dispute the payment of any portion of

the Invoiced Fees (the "**Disputed Invoiced Fees**") if, within the Review Period, a Fee Notice Party notifies the submitting party in writing setting forth the specific objections (a "**Fee Objection**") to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten (10) days prior written notice to the submitting party of any hearing on such motion or other pleading). For the avoidance of doubt, the Debtors shall promptly pay in full all Invoiced Fees in accordance with the terms of this paragraph other than the Disputed Invoiced Fees.

(c) In addition, the Debtors will indemnify the DIP Lenders, the DIP Agent, the DIP Escrow Agent, and their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing (each, an "**Indemnified Person**") and hold them harmless from and against all costs, expenses (including but not limited to reasonable and documented out-of-pocket legal fees and expenses), and liabilities arising out of or relating to the transactions contemplated hereby and any actual or proposed use of the proceeds of any loans made under the DIP Facility; provided that no such person will be indemnified for costs, expenses, or liabilities to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have been incurred solely by reason of the gross negligence, actual fraud, bad faith, or willful misconduct of such person (or their related persons).

19. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

20. Section 507(b) Reservation. Subject to the Carve Out, nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate

protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during the Cases. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by any of the Prepetition Secured Parties that the adequate protection granted herein does in fact adequately protect any of the Prepetition Secured Parties against any Diminution in Value of their respective interests in the Prepetition Collateral (including the Cash Collateral).

21. Insurance. Until the DIP Obligations have been indefeasibly paid in full, at all times the Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral and the DIP Collateral on the terms set forth in the DIP Documents.

22. No Waiver for Failure to Seek Relief. The failure or delay of the DIP Agent, the DIP Escrow Agent, or the Required DIP Lenders to exercise rights and remedies under this Interim Order, the DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

23. Perfection of the DIP Liens and Adequate Protection Liens.

(a) The DIP Agent, the DIP Escrow Agent, and the Prepetition Agents are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, deposit account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Whether or not the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) shall choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed,

enforceable, non-avoidable, and not, subject to the Challenge Period, subject to challenge, dispute, or subordination as of the date of entry of this Interim Order. If the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) determine to file or execute any financing statements, agreements, notice of liens, or similar instruments, the Debtors shall cooperate and assist in any such execution and/or filings as reasonably requested by the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the automatic stay shall be modified to allow such filings.

(b) A certified copy of this Interim Order may be filed with or recorded in filing or recording offices by or on behalf of the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording; provided, however, that notwithstanding the date of any such filing, the date of such perfection shall be the date of this Interim Order.

(c) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the

Bankruptcy Code, subject to applicable law. Any such provision shall have no force and effect with respect to the granting of the DIP Liens and the Adequate Protection Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in accordance with the terms of the DIP Credit Agreement or this Interim Order, subject to applicable law.

24. Reserved.

25. Release. Subject to the rights and limitations set forth in Paragraphs E(v) and 12 of this Interim Order, and with respect to the DIP Secured Parties, effective upon entry of this Interim Order, and with respect to the Prepetition Secured Parties, effective upon entry of the Final Order, each of the Debtors and the Debtors' estates, on their own behalf and on behalf of each of their predecessors, their successors, and assigns, shall, to the maximum extent permitted by applicable law, unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the DIP Secured Parties, and each of the Prepetition Secured Parties, and each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, and predecessors in interest, each in their capacity as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description that exist on the date hereof with respect to or relating to the DIP Obligations, the DIP Liens, the DIP Documents, the

Prepetition Obligations, the Prepetition Liens, or the Prepetition Credit Documents, as applicable, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the DIP Secured Parties and the Prepetition Secured Parties; provided that nothing in this paragraph shall in any way limit or release the obligations of any DIP Secured Party under the DIP Documents.

26. Credit Bidding. Subject to the terms of the RSA, section 363(k) of the Bankruptcy Code and, solely with respect to the Prepetition First Lien Agent and the Prepetition Second Lien Agent, entry of the Final Order, the DIP Agent (at the direction of the Required DIP Lenders), the Prepetition First Lien Agent (at the direction of the Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of the Required Prepetition Second Lien Lenders) shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the underlying lenders' respective claims, including, for the avoidance of doubt, Adequate Protection Superpriority Claims, if any, in any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under Bankruptcy Code section 1129(b)(2)(A)(ii)-(iii).

27. Preservation of Rights Granted Under this Interim Order.

(a) Unless and until all DIP Obligations are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Credit Documents or this

Interim Order, or otherwise seek to exercise or enforce any rights or remedies against such DIP Collateral; and (ii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral, except as set forth in Paragraph 23 herein.

(b) In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, any liens or claims granted to the DIP Secured Parties or the Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

(c) Unless and until all DIP Obligations, Prepetition Obligations, and Adequate Protection Payments are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly (i) except as permitted under the DIP Documents or, if not provided for therein, with the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the Required DIP Lenders, the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), the Required Prepetition First Lien Lenders, the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the Required Prepetition Second Lien Lenders, (x) any modification, stay, vacatur, or amendment of this Interim Order or (y) a priority claim for any administrative expense or unsecured claim against any of the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in

sections 503(b), 507(a), or 507(b) of the Bankruptcy Code) in any of the Cases, *pari passu* with or senior to the DIP Superpriority Claims, the Adequate Protection Superpriority Claims, or the Prepetition Obligations, or (z) any other order allowing use of the DIP Collateral; (ii) except as permitted under the DIP Documents (including the Carve Out), any lien on any of the DIP Collateral or the Prepetition Collateral with priority equal or superior to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens, as applicable; (iii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iv) except as set forth in the DIP Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor; (v) an order converting or dismissing any of the Cases; (vi) an order appointing a chapter 11 trustee in any of the Cases; or (vii) an order appointing an examiner with enlarged powers in any of the Cases.

(d) Notwithstanding any order dismissing any of the Cases entered at any time, (x) the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Payments are indefeasibly paid in full, in cash (and such DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall, notwithstanding such dismissal, remain binding on all parties in interest); and (y) to the fullest extent permitted by law the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in clause (x) above.

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired, or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, (ii) the entry of an order approving the sale of any Prepetition Collateral or DIP Collateral pursuant to section 363(b) of the Bankruptcy Code, or (iii) the entry of an order confirming a chapter 11 plan in any of the Cases. Pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Cases, in any Successor Cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code. The DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Secured Parties and the Prepetition Secured Parties granted by the provisions of this Interim Order shall continue in full force and effect until the DIP Obligations and the Adequate Protection Payments are indefeasibly paid in full, in cash (or, with respect to the DIP Obligations, otherwise satisfied in a manner agreed to by the Required DIP Lenders, the DIP Agent (acting at the direction of the Required DIP Lenders), and the DIP Escrow Agent).

(f) Other than as set forth in this Interim Order, neither the DIP Liens nor the Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest

granted in any of the Cases or arising after the Petition Date, and neither the DIP Liens nor the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

28. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral, including Cash Collateral, or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), initiate, seek standing with respect to, assert, prosecute, join, commence, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Documents, the Prepetition Credit Documents, or this Interim Order, including, without limitation, for the payment of any services rendered by the professionals retained by the Debtors or any Committee appointed in these Cases in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar

relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral or the Prepetition Collateral or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Parties related to the DIP Obligations or the Prepetition Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Prepetition Obligations, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', and the Prepetition Secured Parties' liens or security interests in the DIP Collateral or Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Prepetition Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations, or by or on behalf of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Prepetition Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent, the DIP Escrow Agent, or the DIP Lenders related to the DIP Obligations or the DIP Liens, or (y) any of the Prepetition Liens or any

other rights or interests of any of the Prepetition Secured Parties related to the Prepetition Obligations or the Prepetition Liens; provided that no more than $50,000 of the proceeds of the DIP Facility, the DIP Collateral, or the Prepetition Collateral, including the Cash Collateral, in the aggregate, may be used by any Committee appointed in these Cases, if any, solely to investigate, within the Challenge Period, the claims, causes of action, adversary proceedings, or other litigation against the Prepetition Secured Parties solely concerning the legality, validity, priority, perfection, enforceability or extent of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations. Nothing contained in this Paragraph 28 shall prohibit the Debtors from responding or objecting to or complying with discovery requests of any Committee, in whatever form, made in connection with such investigation or the payment from the DIP Collateral (including Cash Collateral) of professional fees related thereto or from contesting or challenging whether a Termination Declaration has in fact occurred.

29. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Documents unless all of the conditions precedent to the making of such extensions of credit under the applicable DIP Documents have been satisfied in full or waived in accordance with such DIP Documents.

30. Binding Effect; Successors and Assigns. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including without limitation, the DIP Secured Parties, the Prepetition Secured Parties, any Committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or

any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; provided that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan (whether under the DIP Credit Agreement, a promissory note or otherwise) to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates.

31. Limitation of Liability. Subject to entry of a Final Order, in determining to make any loan under the DIP Documents, permitting the use of Cash Collateral, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.* as amended, or any similar federal or state statute). Furthermore, nothing in this Interim Order or in the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the prepetition or post-petition activities of any of the Debtors.

32. No Requirement to File Claim for DIP Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, none of the DIP Agent, the DIP Escrow Agent, or any DIP Lender shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the DIP Obligations, all of which shall be due and payable in accordance with the DIP Documents without the necessity of filing any such proof of claim or request for payment of administrative expenses, and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or enforceability of any of the DIP Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect the DIP Agent's, the DIP Escrow Agent's, or any DIP Lender's rights, remedies, powers, or privileges under any of the DIP Documents, this Interim Order, or applicable law. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

33. No Requirement to File Claim for Prepetition Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, neither the Prepetition Agents nor any Prepetition Secured Parties shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the Prepetition Obligations or Adequate Protection Superpriority Claims; and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or

enforceability of any of the Prepetition Credit Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect any Prepetition Agent's or any Prepetition Secured Party's rights, remedies, powers, or privileges under any of the Prepetition Credit Documents, this Interim Order, or applicable law. In the event any Prepetition Agent nevertheless files a proof of claim, such Prepetition Agent is hereby authorized to file a single consolidated master proof of claim for all applicable Prepetition Obligations arising under the applicable Prepetition Credit Documents and applicable Adequate Protection Superpriority Claims, and such master proof of claim shall be deemed to constitute the filing of such proof of claim in each of the Cases of any Debtor against whom a claim may be asserted under the applicable Prepetition Credit Documents or this Interim Order. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

34. No Marshaling. Subject to entry of a Final Order granting such relief, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral, and proceeds of the DIP Collateral shall be received and applied pursuant to this Interim Order and the DIP Documents notwithstanding any other agreement or provision to the contrary. Subject to entry of a Final Order granting such relief, the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral.

35. Reserved.

36. Equities of the Case. The Prepetition Secured Parties shall each be entitled to all the rights and benefits of section 522(b) of the Bankruptcy Code, and, subject to and upon entry

of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the Collateral (including the Prepetition Collateral).

37. Final Hearing. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**. In the event no objections to entry of the Final Order are timely received, this Court may enter such Final Order without need for the Final Hearing.

38. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

39. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

63 **MARY F. WALRATH**
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Initial Approved Budget

Project Study
Global Consolidated
Initial Approved Budget

Week Number	1	2	3	4	5	6	7	8	9	10
Week Ending	06/12/20	06/19/20	06/26/20	07/03/20	07/10/20	07/17/20	07/24/20	07/31/20	08/07/20	08/14/20
Operating Forecast										
Cash Receipts	7,366,129	7,033,970	9,417,178	7,208,216	4,714,145	5,963,146	4,981,788	9,264,077	6,709,218	6,178,481
Operational Disbursements										
Compensation & Benefits	(8,648,467)	(3,199,443)	(6,162,365)	(2,680,099)	(669,800)	(5,907,556)	(2,709,583)	(7,324,246)	(1,146,634)	(5,919,015)
Rent & Utilities	(273,285)	(205,510)	(187,733)	(422,550)	(273,285)	-	(55,510)	(187,733)	(420,385)	(273,285)
Other Operating Disbursements	(1,461,745)	(3,560,212)	(3,531,658)	(8,717,037)	(2,959,957)	(2,988,511)	(2,959,957)	(2,959,957)	(2,657,611)	(6,564,641)
Total Operational Disbursements	**(10,383,497)**	**(6,965,164)**	**(9,881,756)**	**(11,819,686)**	**(3,903,042)**	**(8,896,067)**	**(5,725,050)**	**(10,471,937)**	**(4,224,630)**	**(12,756,940)**
Non-Operational Disbursements										
Professional Fees	(7,696,422)	(600,000)	-	(140,000)	-	(150,000)	-	(2,650,000)	-	(42,951,234)
Debt Service	-	(3,300,000)	-	(711,858)	-	-	-	(691,011)	-	(4,850,000)
Total Non-Operational Disbursements	**(7,696,422)**	**(3,900,000)**	**-**	**(851,858)**	**-**	**(150,000)**	**-**	**(3,341,011)**	**-**	**(47,801,234)**
Taxes	(504,876)	(517,798)	(238,174)	(181,267)	(51,321)	(902,076)	(114,765)	(253,407)	(461,195)	(310,525)
Net Cash Flow	**(11,218,666)**	**(4,348,993)**	**(702,752)**	**(5,644,595)**	**759,782**	**(3,984,997)**	**(858,026)**	**(4,802,278)**	**2,023,393**	**(54,690,218)**
Cash transferred to Non-Debtors										
Cash Transferred	-	1,500,000	500,000		2,000,000		2,000,000		2,000,000	
Cash Transferred Cumulative	-	1,500,000	2,000,000	2,000,000	4,000,000	4,000,000	6,000,000	6,000,000	8,000,000	8,000,000
Liquidity										
Liquidity										
Cash	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410	46,922,721
AR Facility Availability	-	-	-	-	-	-	-	-	-	-
Revolver Availability	-	-	-	-	-	-	-	-	-	-
Less: Unavailable Foreign Cash	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)
Total Liquidity	**12,392,146**	**28,241,465**	**42,559,625**	**31,993,111**	**29,459,100**	**31,293,519**	**31,951,673**	**37,983,068**	**35,296,166**	**46,272,477**
Senior Secured Super-Priority TL										
Beginning Balance	-	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000
Additional Borrowing/(Repayment)	-	25,000,000	-	-	-	10,000,000	5,000,000	-	-	20,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	(60,000,000)
Ending Balance	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000	-
New First Out TL										
Beginning Balance	-	-	-	-	-	-	-	-	-	-
Additional Borrowing/(Repayment)	-	-	-	-	-	-	-	-	-	50,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	60,000,000
Ending Balance	-	-	-	-	-	-	-	-	-	110,000,000
AR Facility										
Beginning Balance	67,760,133	67,760,133	67,760,133	68,365,479	68,365,479	68,365,479	68,365,479	68,365,479	63,397,178	63,397,178
Plus: Net Borrowing	-	-	21,467,015	-	-	-	-	17,357,918	-	-
Less: Repayment	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**67,760,133**	**67,760,133**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**63,397,178**	**63,397,178**	**63,397,178**
Less: Restricted Cash Balance	(16,059,980)	(20,861,669)	(6,446,103)	(11,368,022)	(14,661,815)	(18,842,399)	(22,326,219)	(6,524,244)	(11,234,539)	(15,568,011)
AR Facility Pro Forma Ending Balance	**51,700,153**	**46,898,464**	**61,919,376**	**56,997,457**	**53,703,664**	**49,523,080**	**46,039,260**	**56,872,934**	**52,162,639**	**47,829,167**
Restricted Cash										
Beginning Balance	11,029,101	16,059,980	20,861,669	6,446,103	11,368,022	14,661,815	18,842,399	22,326,219	6,524,244	11,234,539
Plus: CIT Collections	5,030,879	4,801,689	6,446,103	4,921,919	3,293,793	4,180,584	3,483,820	6,524,244	4,710,295	4,333,471
Less: AR Facility Paydown	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**16,059,980**	**20,861,669**	**6,446,103**	**11,368,022**	**14,661,815**	**18,842,399**	**22,326,219**	**6,524,244**	**11,234,539**	**15,568,011**
Cash										
Beginning Balance	29,291,936	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410
Change in Cash	(16,249,546)	15,849,318	14,318,160	(10,566,514)	(2,534,011)	1,834,419	658,154	6,031,396	(2,686,902)	10,976,310
Ending Balance	**13,042,390**	**28,891,709**	**43,209,869**	**32,643,355**	**30,109,344**	**31,943,763**	**32,601,917**	**38,633,312**	**35,946,410**	**46,922,721**

EXHIBIT 2

Form of DIP Credit Agreement

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

dated as of June [_], 2020

among

Pointwell Limited,
as the Parent,

Skillsoft Corporation,
as the Borrower

the several Lenders
from time to time party hereto,

and

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as the Administrative Agent, the Collateral Agent and the Escrow Agent

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SCHEDULES

EXHIBITS

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of June [__], 2020, among Pointwell Limited, a limited liability company incorporated under the laws of Ireland with registration number 540778 (the "**Parent**"), SKILLSOFT CORPORATION, a Delaware corporation (the "**Borrower**"), as the borrower, the lending institutions from time to time parties hereto (each, a "**Lender**" and, collectively, the "**Lenders**"), and WILMINGTON SAVINGS FUND SOCIETY, FSB, as the Administrative Agent, the Collateral Agent and the Escrow Agent (such terms and each other capitalized term used but not defined in this preamble having the meaning provided in Section 1).

WHEREAS, on June [_], 2020 (the "**Petition Date**"), each Credit Party (together with any of its Subsidiaries and Affiliates that are or become debtors under the Chapter 11 Cases, collectively, the "**Debtors**", and each individually, a "**Debtor**") commenced Chapter 11 Case Nos. [___], as administratively consolidated at Chapter 11 Case No. [___] (collectively, the "**Chapter 11 Cases**" and each individually, a "**Chapter 11 Case**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, within four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada, Ltd., in its capacity as foreign representative on behalf of the Debtors, will file an application with The Court of Queen's Bench of New Brunswick (the "**Canadian Bankruptcy Court**") pursuant to Part IV of the CCAA to, among other things, recognize the Chapter 11 Cases as "foreign main proceedings" and grant certain customary related relief (the "**Canadian Recognition Proceeding**");

WHEREAS, prior to the Petition Date, certain of the Lenders provided financing to the Borrower pursuant to (i) that certain First Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition First Lien Agent**"), the lenders party thereto (the "**Pre-Petition First Lien Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition First Lien Credit Agreement**") and (ii) that certain Second Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition Second Lien Agent**" and together with the Pre-Petition First Lien Agent, the "**Pre-Petition Agents**"), the lenders party thereto (the "**Pre-Petition Second Lien Lenders**" and together with the Pre-Petition First Lien Lenders, the "**Pre-Petition Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition Second Lien Credit Agreement**" and together with the Pre-Petition First Lien Credit Agreement, the "**Pre-Petition Credit Agreements**");

WHEREAS, as of the close of business on June [_], 2020, (i) the Pre-Petition First Lien Lenders under the Pre-Petition First Lien Credit Agreement were owed approximately $1,369,925,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition First Lien Credit Agreement) under the Pre-Petition First Lien Credit Agreement and (ii) the Pre-Petition Second Lien Lenders under the Pre-Petition Second Lien Credit Agreement were owed approximately $670,000,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition Second Lien Credit Agreement) under the Pre-Petition Second Lien Credit Agreement;

WHEREAS, the "Obligations" under and as defined in each of the Pre-Petition Credit Agreements are secured by a security interest in substantially all of the existing and after-acquired assets of the Borrower and the Guarantors, subject to the exceptions set forth therein;

WHEREAS, the Borrower has requested, and, upon the terms set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured term loan credit facility of $60,000,000 (the "**Term Loans**"), which will be funded into the Loan Proceeds Account on the Funding Date, subject to certain conditions set forth herein, pursuant to the DIP Order and the Canadian DIP Recognition Order, to fund the costs and expenses related to the Chapter 11 Cases and the Canadian Recognition Proceeding and the general corporate purposes and working capital requirements of the Parent and its Subsidiaries during the pendency of the Chapter 11 Cases, solely pursuant to and in accordance with this Agreement and the Approved Budget;

WHEREAS, subject to the terms hereof, the DIP Order and the Canadian DIP Recognition Order, the Borrower and the Guarantors have agreed to secure all of their Obligations under the Credit Documents by granting to the Collateral Agent, for the benefit of the Administrative Agent, the Collateral Agent and the other Secured Parties, a security interest in and lien upon substantially all of their existing and after-acquired personal property; and

WHEREAS, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

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

Section 1. Definitions

1.1 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"**ABR**" shall mean for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Effective Rate *plus* 1/2 of 1%, (ii) the rate of interest in effect for such day as published in the Wall Street Journal (or comparable publication or service for publishing the "prime rate") as the "prime rate", and (iii) the rate per annum determined in the manner set forth in clause (e) of the definition of Eurocurrency Rate *plus* 1%; provided that notwithstanding the foregoing, in no event shall the ABR applicable to the Term Loans at any time be less than 2.00% per annum. Any change in the ABR due to a change in such rate published as the "prime rate" or in the Federal Funds Effective Rate or Eurocurrency Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"**ABR Loan**" shall mean each Loan bearing interest based on the ABR.

"**Actual Cash on Hand**" shall mean unrestricted cash of the Credit Parties and its Subsidiaries (other than the restricted cash of the Receivables Subsidiary, including any cash collected in respect of receivables that is held as collateral for the Receivables Facility) deposited in commercial banks located in the United States (but not including the amounts deposited in the Loan Proceeds Account) and Canada or otherwise subject to a Control Agreement.

"**Actual Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the amount of the line item "Cash Receipts" as determined by reference to the Approved Budget as then in effect.

"**Actual Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties and their Subsidiaries, (i) (a) the amount of Actual Cash on Hand plus (b) the amount of the proposed Withdrawal pursuant to any outstanding Withdrawal Notice *minus* (ii) the Unrestricted Cash on Hand.

"**Actual Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Actual Restructuring Related Amounts.

"**Actual Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees during such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non-Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Ad Hoc Group of Crossholder Lenders**" shall mean those certain Lenders represented by the Crossholder Lender Advisors.

"**Ad Hoc Group of Lenders**" shall mean those certain Lenders represented by the Specified Lender Advisors.

"**Administrative Agent**" shall mean Wilmington Savings Fund Society, FSB, as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent appointed pursuant to Section 12.9.

"**Administrative Agent's Office**" shall mean the Administrative Agent's address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"**Administrative Questionnaire**" shall have the meaning provided in Section 13.6(b)(ii)(D).

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

"**Affiliate**" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliated Institutional Lender**" shall mean any Affiliate of the Sponsor that is either a bona fide debt fund or that extends credit or buys loans in the ordinary course of business.

"**Affiliated Lender**" shall mean a Lender that is the Sponsor or any Affiliate thereof (other than the Parent or any other Subsidiary of the Parent, or any Affiliated Institutional Lender).

"**Agent Advisors**" shall mean Seward & Kissel LLP, as counsel, and such other firm or local counsel appointed on behalf of, collectively, the Administrative Agent and the Collateral Agent in each relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions).

"**Agent Parties**" shall have the meaning provided in Section 13.17(b).

"**Agents**" shall mean the Administrative Agent and the Collateral Agent.

"**Agreement**" shall mean this Credit Agreement.

"**Agreement Currency**" shall have the meaning provided in Section 13.19.

"**AML Legislation**" shall mean the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, applicable within Canada, including any rules, regulations, guidelines, ordinances, judgments or orders thereunder, as the same may be amended from time to time.

"**Anti-Terrorism Laws**" shall mean any law relating to terrorism, corruption, economic sanctions, or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control, the United Nations Security Council, the European Union, Her Majesty's Treasury (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

"**Applicable Margin**" shall mean, on any date, with respect to each Term Loan that is an (i) ABR Loan, 6.50% per annum and (ii) Eurocurrency Loan, 7.50% per annum.

"**Approved Budget**" shall mean the then most current budget prepared by the Borrower and approved by the Required Lenders in accordance with Section 9.18.

"**Approved Budget Variance Report**" shall mean a report provided by the Borrower to the Administrative Agent, the Specified Lender Advisors and the Crossholder Lender Advisors (a) showing, in each case, on a line item by line item and a cumulative basis, the Actual Cash Receipts, the Actual Operating Disbursement Amounts and the Actual Restructuring Related Amounts as of the last day of the Variance Testing Period then most recently ended, noting therein (i) all variances, on a cumulative basis, from the Budgeted Cash Receipts and the Budgeted Operating Disbursement Amounts for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance in such Variance Testing Period with the Permitted Variances and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the actions which the Borrower has taken or intend to take with respect thereto and (b) which such reports shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via email by any of the Specified Lender Advisors).

"**Approved Fund**" shall mean any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"**Asset Sale**" shall mean:

(i) the sale, conveyance, transfer, or other disposition, in each case, which results in the permanent disposition of the subject property, whether in a single transaction or a series of related transactions, of property or assets (each a "**disposition**") of the Parent or any Subsidiary, or

(ii) the issuance or sale of Equity Interests of any Subsidiary (other than preferred stock of Subsidiaries issued in compliance with Section 10.1), whether in a single transaction or a series of related transactions.

"**Asset Sale Prepayment Event**" shall mean any Asset Sale; provided that, with respect to any Asset Sale, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Asset Sales exceeds $250,000 (the "**Asset Sale Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Asset Sale Prepayment Trigger).

"**Assignment and Acceptance**" shall mean an assignment and acceptance substantially in the form of Exhibit F, or such other form as may be approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) and the Administrative Agent.

"**Attorney Costs**" shall mean all reasonable and documented out-of-pocket fees, expenses and disbursements of any law firm or other external legal counsel.

"**Authorized Officer**" shall mean, with respect to any Person, any individual holding the position of chairman of the board (if an officer), any executive officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Financial Officer, the Treasurer, the Chief People Officer, the Vice President-Finance, a Senior Vice President, a Director, a Manager, or any other senior officer or agent with express authority to act on behalf of such Person designated as such by the board of directors or other managing authority of such Person.

"**Bail-In Action**" shall mean the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"**Bail-In Legislation**" shall mean, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law or regulation for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule or (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Bank Account**" shall mean any Deposit Account, Securities Account and Commodity Account of any Credit Party, each as defined in the UCC, or, if such account is located in Canada, shall mean any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

"**Bankruptcy Code**" shall mean Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"**Bankruptcy Court**" shall mean the "Bankruptcy Court" as defined in the recitals to this agreement or such other court having jurisdiction over the Chapter 11 Cases.

"**Bankruptcy Rules**" shall mean the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time be in effect and applicable to the Chapter 11 Cases.

"**Benefited Lender**" shall have the meaning provided in Section 13.9(a).

"**BIA**" means the *Bankruptcy and Insolvency Act* (Canada), RSC 1985, c. B-3, as amended.

"**Board**" shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

"**Borrower**" shall have the meaning provided in the preamble to this Agreement.

"**Borrower Materials**" shall have the meaning provided in Section 13.17(b).

"**Borrowing**" shall mean the Term Loans made on the Funding Date.

"**Budgeted Borrower Professional Fees**" shall mean with respect to any period, the amount that corresponds to the line item "Professional Fees" in the Approved Budget, as then in effect.

"**Budgeted Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the line item "Cash Receipts" in the Approved Budget, as then in effect.

"**Budgeted Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties, the amounts set forth as of such date of unrestricted cash of the Credit Parties and its Subsidiaries in the Approved Budget.

"**Budgeted Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Budgeted Restructuring Related Amounts.

"**Budgeted Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees for such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Business Day**" shall mean any day excluding Saturday, Sunday, and any other day on which banking institutions in New York City and Wilmington, Delaware are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a Eurocurrency Loan, any fundings, disbursements, settlements, and payments in respect of any such Eurocurrency Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the applicable London interbank market.

"**Canadian Bankruptcy and Insolvency Law**" shall mean any federal, provincial or territorial Canadian law from time to time in effect relating to bankruptcy, winding-up, insolvency, reorganization,

receivership, plans of arrangement or relief or protection of debtors, including the BIA, the CCAA, the *Winding up and Restructuring Act* (Canada), the *Business Corporations Act* (New Brunswick) and any other applicable corporate legislation.

"**Canadian Bankruptcy Court**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Benefit Plan**" shall mean any pension, retirement, savings, profit sharing, health, medical, dental, disability, life insurance, welfare or other employee benefit plan, program, policy or practice, whether written or oral, funded or unfunded, registered or unregistered, which is sponsored, maintained or contributed to or required to be contributed to by any Credit Party or under which any Credit Party has any actual or potential liability in respect of its employees or former employees in Canada, other than a Canadian Pension Plan or a Canadian Statutory Plan.

"**Canadian Confirmation Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Confirmation Order in Canada, which order shall be in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Defined Benefit Plan**" shall mean a Canadian Pension Plan which contains a "defined benefit provision" as defined in subsection 147.1(1) of the Income Tax Act (Canada).

"**Canadian DIP Recognition Order**" shall mean the Canadian Supplemental Order, unless the Canadian Final Order shall have been entered, in which case it means the Canadian Final Order.

"**Canadian Final Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Final Order in Canada and providing for a super priority charge over the Canadian Property, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Interim Order**" shall mean, collectively, the Canadian Recognition Order and the Canadian Supplemental Order.

"**Canadian Pension Plan**" shall mean a "registered pension plan", as that term is defined in subsection 248(1) of the *Income Tax Act* (Canada), which is or was sponsored, administered or contributed to, or required to be contributed to by, any Credit Party or under which any Credit Party has any actual or potential liability.

"**Canadian Property**" shall mean all current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Debtors located in Canada.

"**Canadian Recognition Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing the Chapter 11 Cases as "foreign main proceedings" under Part IV of the CCAA, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the

Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Canadian Recognition Proceeding**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Statutory Plan**" shall mean any government sponsored pension, employment insurance, parental insurance or worker compensation plan.

"**Canadian Supplemental Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Interim Order in Canada, providing for the CCAA DIP Lenders' Charge, granting a stay of proceedings in respect of the Debtors in Canada and granting certain customary additional relief in the Canadian Recognition Proceeding, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Capital Lease**" shall mean, as applied to any Person, any lease of any property (whether real, personal, or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person.

"**Capital Stock**" shall mean (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights, or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited), and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that "cash-settled phantom appreciation programs" in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

"**Capitalized Lease Obligation**" shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a Capital Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

"**Carve Out**" has the meaning assigned to such term in the DIP Order.

"**Carve Out Trigger Notice**" has the meaning assigned to such term in the DIP Order.

"**Cash Equivalents**" shall mean:

(i) Dollars,

(ii) (a) Euro, Pounds Sterling, Canadian Dollars, or any national currency of any Participating Member State in the European Union or (b) local currencies held from time to time in the ordinary course of business,

(iii) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government, Canadian government, Her Majesty's Government, or any country that is a member state of the European Union or any agency or instrumentality thereof the securities

of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,

(iv) certificates of deposit, time deposits, and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year, and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the Dollar Equivalent as of the date of determination) in the case of foreign banks,

(v) repurchase obligations for underlying securities of the types described in clauses (iii), (iv), and (ix) entered into with any financial institution meeting the qualifications specified in clause (iv) above,

(vi) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P and in each case maturing within 24 months after the date of creation thereof,

(vii) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 24 months after the date of creation or acquisition thereof,

(viii) readily marketable direct obligations issued by the federal government, any state, commonwealth, or territory of the United States, or the federal government or any province of Canada, in each case, any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition,

(ix) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition,

(x) solely with respect to any Foreign Subsidiary: (a) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (b) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "A-2" or the equivalent thereof or from Moody's is at least "P-2" or the equivalent thereof (any such bank being an "**Approved Foreign Bank**"), and in each case with maturities of not more than 24 months from the date of acquisition, and (c) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank, in each case, customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by such Foreign Subsidiary organized in such jurisdiction,

(xi) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States, Cash Equivalents shall also include investments of the type and maturity

described in clauses (i) through (ix) above of foreign obligors, which investments have ratings, described in such clauses or equivalent ratings from comparable foreign rating agencies, and

(xii) investment funds investing 90% of their assets in securities of the types described in clauses (i) through (ix) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (i) and (ii) above; provided that such amounts are converted into any currency listed in clauses (i) and (ii) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"**Cash Flow Forecast**" shall mean a consolidated weekly cash flow forecast commencing on the Wednesday before the Closing Date through January 27, 2021, which shall set forth, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period.

"**Cash Management Order**" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after the "first day" hearing, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), which among other matters authorizes the Debtors to maintain their existing cash management and treasury arrangements (as set forth in the Pre-Petition Term Loan Agreement) or such other arrangements as shall be acceptable to the Required Lenders in all material respects (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

"**Casualty Event**" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award in respect of any equipment, fixed assets, or real property (including any improvements thereon) to replace or repair such equipment, fixed assets, or real property; provided that, with respect to any Casualty Event, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Casualty Events, after giving effect to reinvestment rights set forth herein, exceeds $250,000 (the "**Casualty Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Casualty Prepayment Trigger).

"**CCAA**" means the Companies' Creditors Arrangement Act (Canada), R.S.C 1985, c. C-36.

"**CCAA Administration Charge**" means the "Administration Charge" as defined in the Canadian Supplemental Order, in an amount not to exceed CAD$150,000.

"**CCAA DIP Lenders' Charge**" means the "DIP Lenders' Charge" as defined in the Canadian Supplemental Order.

"**CCAA Filing Date**" shall mean the date on which an application to commence the Canadian Recognition Proceeding is made to the Canadian Bankruptcy Court.

"**Change in Law**" shall mean (i) the adoption of any law, treaty, order, policy, rule, or regulation after the Closing Date, (ii) any change in any law, treaty, order, policy, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (iii) compliance by any Lender with any guideline, request, directive, or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law), including, for avoidance of doubt any such adoption, change or compliance in respect of (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules,

regulations, guidelines, or directives thereunder or issued in connection therewith and (b) all requests, rules, guidelines, requirements, or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign regulatory authorities pursuant to Basel III regardless of the date enacted, adopted or issued.

"**Change of Control**" shall mean and be deemed to have occurred if (i) the Permitted Holders shall at any time not beneficially own, in the aggregate, directly or indirectly, at least a majority of the voting power of the outstanding voting stock of the Parent; (ii) [reserved]; (iii) at any time, a Change of Control under clause (i) of either Pre-Petition Credit Agreement shall have occurred; or (iv) the Parent shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Borrower. Notwithstanding the foregoing, the commencement of the Chapter 11 Cases shall not constitute a "Change of Control" hereunder.

"**Chapter 11 Cases**" has the meaning set forth in the recitals of this Agreement.

"**Chapter 11 Plan**" shall mean a chapter 11 plan of liquidation or reorganization in the Chapter 11 Cases in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders in all respects (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and consented to by the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), confirmed by an order (in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) of the Bankruptcy Court under the Chapter 11 Cases (which consent or satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), containing, among other things, (i) a release in favor of the Administrative Agent and the Lenders and their respective affiliates on the terms set forth in the RSA, and (ii) provisions with respect to the settlement or discharge of all claims and other debts and liabilities on the terms set forth in the RSA, as such plan of liquidation or reorganization may be modified, altered, amended or otherwise changed or supplemented with the prior written consent of the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Chapter 11 Plan Disclosure Statement**" shall mean a disclosure statement to accompany the Chapter 11 Plan and provide adequate information to voting creditors as provided by section 1125(a)(1) in the Bankruptcy Code.

"**Charterhouse**" shall mean Charterhouse Capital Partners LLP.

"**Closing Date**" shall mean the date on which the conditions precedent set forth in Section 6.1 shall have been satisfied or waived, which date is June [_], 2020.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"**Collateral**" shall mean (i) all property pledged, charged, assigned or mortgaged or purported to be pledged, charged, assigned or mortgaged pursuant to the Security Documents, excluding in all events Excluded Property and (ii) (x) the "DIP Collateral" referred to in the DIP Order, it being understood that "Collateral" shall include all such "DIP Collateral" irrespective of whether any such property was excluded pursuant to the Pre-Petition Credit Documents and (y) the Canadian Property; provided that the Collateral shall in no event included Excluded Property.

"**Collateral Agent**" shall mean Wilmington Savings Fund Society, FSB, as collateral agent under the Security Documents, or any successor collateral agent appointed pursuant to Section 12.9.

"**Commitment Fee**" shall have the meaning provided in Section 4.1(a).

"**Commitments**" shall mean, with respect to each Lender (to the extent applicable), such Lender's Term Loan Commitment.

"**Communications**" shall have the meaning provided in Section 13.17.

"**Company Advisors**" shall means (i) Alix Partners and (ii) Houlhan Lokey.

"**Confidential Information**" shall have the meaning provided in Section 13.16.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Chapter 11 Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Chapter 11 Plan Disclosure Statement) in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (which satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Contractual Requirement**" shall have the meaning provided in Section 8.3.

"**Control Agreement**" shall mean an account control agreement that establishes the Collateral Agent's "control" over a Bank Account within the meaning of Section 8-106 or 9-104 of the UCC, as applicable, each in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower.

"**Credit Documents**" shall mean this Agreement, the Fee Letter, the Escrow Agreement, the Guarantees, the Security Documents, the Intercompany Note, any promissory notes issued by the Borrower pursuant hereto, any Withdrawal Notice, any other agreements, documents and instruments providing for or evidencing any other Obligations, and any other document or instrument executed or delivered at any time in connection with any Obligations, including any joinder agreement among holders of Obligations, to the extent such are effective at the relevant time, as each may be amended, restated, amended and restated, supplemented, modified, renewed or extended from time to time.

"**Credit Event**" shall mean the Closing Date, the Funding Date and each Withdrawal Date.

"**Credit Party**" shall mean the Parent, the Borrower, and the other Guarantors.

"**Crossholder Lender Advisors**" shall mean (a) Milbank LLP, as legal counsel and (b) Moelis & Company LLC, as financial advisor.

"**Debt Incurrence Prepayment Event**" shall mean any issuance or incurrence by the Parent or any Subsidiary of any Indebtedness not otherwise permitted to be incurred pursuant to Section 10.1 of this Agreement.

"**Debtor Relief Laws**" shall mean the Bankruptcy Code of the United States, Canadian Bankruptcy and Insolvency Law, the Insolvency Act 1986 under the laws of England and Wales, the provisions of law implemented pursuant to the Corporate Insolvency and Governance Bill dated 20 March 2020 under the laws of England and Wales and all other liquidation, conservatorship, bankruptcy, general assignment for

the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, administration, examinership or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Default**" shall mean any event, act, or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"**Defaulting Lender**" shall mean any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of Lender Default.

"**Deferred Net Cash Proceeds**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Designated Jurisdiction**" shall mean any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"**DIP Facility**" shall mean the funding of the Term Loans on the Funding Date.

"**DIP Order**" shall mean the Interim Order, unless the Final Order shall have been entered, in which case it means the Final Order.

"**Direction of the Required Lenders**" shall mean a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any of the Specified Lender Advisors (or any other Lender Advisor selected by the Required Lenders and designated in writing to the Administrative Agent), it being understood and agreed that the Administrative Agent and/or the Collateral Agent and/or the Escrow Agent can conclusively rely on any such written direction or instruction from such Specified Lender Advisor or designated Lender Advisor at the direction of the Required Lenders.

"**disposition**" shall have the meaning assigned such term in clause (i) of the definition of Asset Sale.

"**Disqualified Stock**" shall mean, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, in whole or in part, in each case, prior to the date that is 91 days after the Maturity Date; provided that (i) if such Capital Stock is issued to any plan for the benefit of employees of the Parent or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death, or disability and (ii) no Qualified PECS shall constitute Disqualified Stock.

"**Dollar Equivalent**" shall mean, at any time, (i) with respect to any amount denominated in Dollars, such amount, and (ii) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars, as determined by the Administrative Agent on the basis of the Spot Rate (determined on the most recent date of determination) for the purchase of Dollars with such currency.

"**Dollars**" and "**$**" shall mean dollars in lawful currency of the United States.

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

"**EEA Member Country**" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Environmental Claims**" shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation, or proceedings pursuant to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "**Claims**"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief relating to the presence Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata, and natural resources such as wetlands.

"**Environmental Law**" shall mean any applicable federal, state, provincial, territorial, foreign, or local statute, law, rule, regulation, ordinance, code, and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree, or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or protection of human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release, or threat of Release of Hazardous Materials.

"**Equity Interest**" shall mean Capital Stock and all warrants, options, or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

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

"**ERISA Affiliate**" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party or any Subsidiary thereof, is treated as a single employer under Section 414 (b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"**ERISA Event**" shall mean (i) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (ii) the existence

with respect to any Plan of a non-exempt Prohibited Transaction; (iii) any Reportable Event; (iv) the failure of any Credit Party, any Subsidiary thereof or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (v) a determination that any Pension Plan is in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (vi) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (vii) the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (viii) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (ix) the failure by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (x) the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (xi) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (xii) the failure by any Credit Party, any Subsidiary thereof, or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"**Escrow Agent**" shall mean the Escrow Agent under the Escrow Agreement, which shall initially be Wilmington Savings Fund Society, FSB, in its capacity as Escrow Agent.

"**Escrow Agreement**" shall mean an Escrow Agreement dated as of the Closing Date (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among the Borrower, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Loan Proceeds Account.

"**EU Bail-In Legislation Schedule**" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"**Eurocurrency Loan**" shall mean any Loan bearing interest at a rate determined by reference to the Eurocurrency Rate.

"**Eurocurrency Rate**" shall mean, for any Interest Period with respect to a Eurocurrency Loan, the rate per annum equal to the offered rate administered by ICE Benchmark Administration ("**LIBOR**") or a comparable or successor rate, which rate is approved by the Administrative Agent (at the Direction of the Required Lenders), on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent (at the Direction of the Required Lenders) from time to time) at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to one month commencing that date; provided that, in no event shall the Eurocurrency Rate be less than 1.00% per annum.

"**European Union Regulation**" shall have the meaning given to such term in Section 8.18.

"**Event of Default**" shall have the meaning provided in Section 11.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means, as to any Credit Party, (i) all Deposit Accounts or Securities Accounts that are used solely to hold cash, Cash Equivalents and other assets comprised solely of (a) funds used for payroll and payroll taxes and other employee benefit payments to any Credit Party's officers, directors, employees or consultants, and (b) all taxes required to be collected, remitted or withheld (including, without limitation, federal, state, provincial, territorial and foreign withholding taxes), including, without limitation, the employer's share thereof, (ii) any Deposit Account or Securities Accounts or Futures Account (other than any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada) that, individually, contain an average daily balance of less than $50,000 or in the aggregate, contain an average daily balance of less than $150,000 and (iii) any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada that in the aggregate, contain an average daily balance of less than $250,000.

"**Excluded Property**" shall mean (a) [reserved], (b) [reserved], (c) any governmental licenses or state or local franchises, charters and authorizations to the extent security interest is prohibited by a Requirement of Law (excluding the proceeds therefrom), (d) pledges and security interests prohibited or restricted by any Requirements of Law, (e) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, (f) [reserved], (g) any assets where the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby as determined by the Required Lenders, (h) any Capital Stock of any Receivables Subsidiary, (i) [reserved], (j) [reserved] and (k) [reserved]; provided, however, that Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded Property referred to in clauses (a) through (k) (unless such proceeds, substitutions or replacements would constitute Excluded Property referred to in clauses (a) through (k)).

"**Excluded Subsidiary**" shall mean after giving effect to the DIP Order, (a) [reserved], (b) any Subsidiary of the Parent that is prohibited by any applicable Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Receivables Subsidiary, or (d) [reserved].

"**Excluded Taxes**" shall mean, with respect to any Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its net income or net profits, franchise (and similar) Taxes (imposed in lieu of net income Taxes) or branch profits Taxes (in each case, however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local, or foreign law), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) other than in the case of a Lender that is an assignee pursuant to a request by the Borrower under Section 13.7 (or that designates a new lending office pursuant to a request by the Borrower), any United States federal withholding Tax imposed on amounts payable to or for the account of a Lender pursuant to laws in force at the time such Lender acquires an interest in (or becomes a party to) any Credit Document (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the

applicable Credit Parties with respect to such withholding Tax pursuant to Section 5.4, (iii) any withholding Taxes attributable to a recipient's failure to comply with Section 5.4(e), (iv) [reserved] or (v) any withholding Tax imposed under FATCA.

"**Fair Market Value**" shall mean with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm's length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as determined in good faith by the Borrower.

"**FATCA**" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder, official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the date of this Agreement (or any amended or successor version described above), and any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing.

"**FCPA**" shall have the meaning provided in Section 8.20(c).

"**Federal Funds Effective Rate**" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to a financial institution selected by the Required Lenders (in consultation with the Borrower) on such day on such transactions, which such rate shall be administratively feasible for the Administrative Agent.

"**Fee Letter**" shall mean that certain Fee Letter dated the Closing Date between Wilmington Savings Fund Society, FSB and the Borrower.

"**Fees**" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"**Final Hearing Date**" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"**Final Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on a final basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Required Lenders (which satisfaction of the Required Lender in each case may be communicated via email from any of the Specified Lender Advisors)), which order has not been reversed or stayed or is otherwise subject to a timely filed motion for a stay, rehearing, reconsideration, appeal or any other review without the consent of the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Financial Advisor Engagement Letters**" shall mean (i) that certain agreement executed as of April 1, 2019 between Greenhill & Co., LLC, the Parent and Gibson Dunn & Crutcher LLP and (ii) that certain agreement dated as of January 21, 2020 by and among Moelis & Company LLC, Milbank LLP, and the Parent.

"**Financial Officer**" shall mean the chief financial officer, principal accounting officer, treasurer or controller (or equivalent officer) of the Borrower.

"**Flood Insurance Laws**" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"**Flow of Funds Statement**" shall mean a flow of funds statement relating to payments to be made and credited by all of the parties on the Funding Date (including wire instructions therefor) as prepared by the Borrower and its financial advisor in consultation with (and approved by) the Administrative Agent and the Required Lenders (which such approval may be communicated via email from any of the Specified Lender Advisors).

"**Foreign Benefit Arrangement**" shall mean any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Credit Party**" shall mean the Parent and each Guarantor that is a Foreign Subsidiary.

"**Foreign Law Security Filing**" shall mean any filing or notification required to be made in any registry of a territory outside of the U.S. in order to perfect any security interest created pursuant to the Security Documents.

"**Foreign Plan**" shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Plan Event**" shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (i) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (ii) the failure to register or loss of good standing (if applicable) with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (iii) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the terms of such Foreign Plan or Foreign Benefit Arrangement.

"**Foreign Pledge Agreement**" shall mean each (a) pledge agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other pledge agreement executed by any Credit Party and governed by the laws of any jurisdiction (other than the United States) pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Security Agreement**" shall mean each (a) security agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other security agreement executed by any Credit Party pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Subsidiary**" shall mean each Subsidiary of the Parent that is not a U.S. Subsidiary.

"**Full Payment**" or "**Pay in Full**" or "**Paid in Full**" shall mean, with respect to any Obligations, the indefeasible, full and complete cash payment thereof, including any interest, fees and other charges accruing during the Chapter 11 Cases. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated as well.

"**Fund**" shall mean any Person (other than a natural Person) that is engaged or advises funds or other investment vehicles that are engaged in making, purchasing, holding, or investing in commercial loans and similar extensions of credit in the ordinary course.

"**Funding Date**" shall have the meaning set forth in Section 2.1.

"**GAAP**" shall mean generally accepted accounting principles in the United States, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Furthermore, at any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP and GAAP concepts shall thereafter be construed to refer to IFRS and corresponding IFRS concepts (except as otherwise provided in this Agreement); provided that any such election, once made, shall be irrevocable; provided, further, that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Parent's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give written notice of any such election made in accordance with this definition to the Administrative Agent. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness. Notwithstanding any other provision contained herein, the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations.

"**Governmental Authority**" shall mean any nation, sovereign, or government, any state, province, territory, or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, taxing, regulatory, or administrative functions of or pertaining to government, including a central bank or stock exchange.

"**Granting Lender**" shall have the meaning provided in Section 13.6(g).

"**Guarantee**" shall mean (i) the Debtor-in-Possession Guarantee dated as of the Closing Date made by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time and (ii) any other guarantee of the Obligations made by a Subsidiary in form and substance reasonably acceptable to the Required Lenders (which satisfaction may be communicated by via email from any of the Specified Lender Advisors).

"**guarantee obligations**" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any primary obligor in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (i) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds

(a) for the purchase or payment of any such Indebtedness or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities, or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness, or (iv) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term guarantee obligations shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations or product warranties in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any guarantee obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"**Guarantors**" shall mean (i) each Subsidiary of the Parent that is party to a Guarantee on the Closing Date, (ii) each Subsidiary of the Parent that becomes a party to a Guarantee after the Closing Date pursuant to Section 9.11 or otherwise and (iii) the Parent; provided that (i) in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary) (ii) in no event shall any Immaterial Subsidiary be required to be a Guarantor (unless expressly requested by the Required Lenders in writing after the Closing Date) and (iii) in no event shall any Subsidiary that is described in clause (b) of the definition of "Excluded Subsidiary" be a Guarantor.

"**Hazardous Materials**" shall mean (i) any petroleum or petroleum products, radioactive materials, friable asbestos, polychlorinated biphenyls, and radon gas; (ii) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any Environmental Law; and (iii) any other chemical, material, or substance, which is prohibited, limited, or regulated due to its dangerous or deleterious properties or characteristics by, any Environmental Law.

"**Hedge Agreements**" shall mean (i) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**IFRS**" shall have the meaning given such term in the definition of GAAP.

"**Immaterial Subsidiary**" shall mean any Foreign Subsidiary as of the Closing Date, except to the extent that such Subsidiary is organized under the laws of Canada or any province thereof, Ireland, or England and Wales.

"**Impacted Loans**" shall have the meaning provided in Section 2.10(a).

"**incur**" shall have the meaning provided in Section 10.1.

"**Indebtedness**" shall mean, with respect to any Person, (i) any indebtedness (including principal and premium) of such Person, whether or not contingent (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures, or similar instruments or letters of credit or bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), or (d) representing any hedging obligations, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and hedging obligations) would appear as a net liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Parent solely by reason of push down accounting under GAAP shall be excluded, (ii) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (i) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (iii) to the extent not otherwise included, the obligations of the type referred to in clause (i) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person. The amount of Indebtedness of any Person for purposes of clause (iii) above shall (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

"**Indemnified Liabilities**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Person**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Taxes**" shall mean (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Initial Approved Budget**" shall mean the Approved Budget attached hereto as Exhibit B on the Closing Date; provided that, for the avoidance of doubt, the Initial Approved Budget shall not contemplate or include the funding or prefunding of any executive retention plan.

"**Initial Investors**" shall mean CCP IX LP No. 1, CCP IX LP No. 2 and CCP IX LP Co-Investment LP, and each of their respective Affiliates (excluding any operating portfolio companies of the foregoing).

"**Insolvent**" shall mean, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

"**Intellectual Property**" shall mean all U.S. and non-U.S. intellectual property in all jurisdictions throughout the world, including all (i) (a) patents; (b) copyrights and copyrightable works; (c) trademarks, service marks, trade names, logos, trade dress, and other indicia of origin; (d) trade secrets and know how; and (e) all other intellectual property rights in inventions, processes, developments, technology, software (both in source code and/or object code form), graphics, advertising materials, labels, package designs, website content, photographs, designs, data and databases and confidential, proprietary or non-public information; and, in each case, (a)–(e), including all registrations and applications to register the foregoing; and (ii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds (including in the form of royalty or settlement payments) therefrom.

"**Intercompany Note**" shall mean the amended and restated intercompany demand promissory note dated as of the Closing Date substantially in the form of Exhibit I delivered to the Administrative Agent.

"**Interest Period**" shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

"**Interim Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on an interim basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors), which order is not subject to a stay, injunction or other limitation not approved by the Administrative Agent and the Required Lenders (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Investment**" shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances, or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel, and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests, or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Parent in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment, or other amount received by any Credit Party or any of its Subsidiaries in respect of such Investment to the extent permitted under this Agreement (provided that, with respect to amounts received other than in the form of Cash Equivalents, such amount shall be equal to the Fair Market Value of such consideration).

"**Investment Grade Rating**" shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating organization.

"**Investment Grade Securities**" shall mean:

(i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Credit Parties and their Subsidiaries,

(iii) investments in any fund that invest at least 90% in investments of the type described in clauses (i) and (ii) which fund may also hold immaterial amounts of cash pending investment or distribution, and

(iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"**Irish Debenture**" shall mean the debenture governed by the laws of Ireland, executed by any Foreign Credit Party incorporated in Ireland or holding assets in Ireland in form and substance reasonably satisfactory to the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Irish Obligors**" shall mean Pointwell Limited, Skillsoft Limited, Skillsoft Ireland Limited, Thirdforce Group Limited, SSI Investments I Limited, SSI Investments II Limited and SSI Investments III Limited.

"Irish Security Documents" shall mean the Irish Debenture and the Irish Share Charge and Security Assignment.

"**Irish Share Charge and Security Assignment**" shall mean the share charge and security assignment governed by the laws of Ireland, to be executed by any Credit Party (other than an Irish Obligor) that holds shares in an Irish Obligor or that is owed a debt by an Irish Obligor in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Judgment Currency**" shall have the meaning provided in Section 13.19.

"**Legal Reservations**" shall mean (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing, (b) applicable Debtor Relief Laws, (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void, (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge, (e) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty or considered to be interest and thus void, (f) the principle that may prohibit restrictions in relation to a voluntary prepayment of loans bearing floating rates of interest and may restrict charging prepayment fees for a voluntary prepayment of such loans, (g) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, (h) the principle that the creation or purported creation of collateral over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which security has purportedly been created, (i) similar principles, rights and defenses under the laws of any relevant jurisdiction and (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions under this Agreement

"**Lender**" shall have the meaning provided in the preamble to this Agreement.

"**Lender Advisors**" shall mean (x) the Specified Lender Advisors, (y) the Crossholder Lender Advisors and (z) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders or the Ad Hoc Group of Crossholder Lenders and/or the Required Lenders.

"**Lender Default**" shall mean (i) the refusal or failure of any Lender to make available its portion of any incurrence of Loans, which refusal or failure is not cured within one business day after the date of such refusal or failure, unless such Lender notifies the Administrative Agent in writing that such refusal or failure is the result of such Lender's good faith determination that one or more conditions precedent to

funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in writing) has not been satisfied, (ii) the failure of any Lender to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one business day of the date when due, unless the subject of a good faith dispute, (iii) a Lender has notified, in writing, the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations under this Agreement or has made a public statement to that effect with respect to its funding obligations under this Agreement or a Lender has publicly announced that it does not intend to comply with its funding obligations under other loan agreements, credit agreements or similar facilities generally, (iv) a Lender has failed to comply with its funding obligations under this Agreement or (v) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

"**Lender-Related Distress Event**" shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a "**Distressed Person**"), a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, or a custodian, conservator, administrator, administrative receiver, receiver, receiver and manager, trustee or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, or such Distressed Person, or any Person that directly or indirectly controls such Distressed Person or is subject to a forced liquidation or such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.

"**LIBOR**" shall have the meaning provided in the definition of Eurocurrency Rate.

"**Lien**" shall mean with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the UCC (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease or a license to Intellectual Property be deemed to constitute a Lien.

"**Loan**" shall mean any Term Loan.

"**Loan Proceeds Account**" shall mean a Loan Proceeds Account with the Escrow Agent into which the proceeds of the Loans shall be deposited and retained subject to withdrawal thereof by the Borrower pursuant to a Withdrawal Notice for use in accordance with the terms hereof and, for the avoidance of doubt, the Approved Budget or return thereof to the Lenders upon the occurrence of the Maturity Date.

"**Master Agreement**" shall have the meaning provided in the definition of the term "Hedge Agreement."

"**Material Adverse Effect**" shall mean a material adverse effect on (a) the business, assets, operations, properties, or condition (financial or otherwise) of the Parent and its Subsidiaries, taken as a whole (excluding (i) any matters publicly disclosed in writing or disclosed to the Administrative Agent and the Lenders in writing prior to the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, (ii) any matters disclosed in the schedules hereto, (iii) any matters disclosed in any first day pleadings or declarations and (iv) the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, the events and conditions related and/or leading up thereto and the effects thereof and any action required to be taken

under the Credit Documents or under the DIP Order or the Canadian DIP Recognition Order), (b) the ability of the Credit Parties, taken as a whole, to perform any of its obligations under this Agreement or any of the other Credit Documents, (c) the Collateral (taken as a whole) or the Collateral Agent's Liens (on behalf of itself and the other Secured Parties) (taken as a whole) or (d) the rights of, benefits available to, or remedies of the Agents, the Escrow Agent or the Lenders under any of the Credit Documents.

"**Maturity Date**" shall mean the earliest to occur of (a) the date that is three months after the Petition Date; provided that by written consent, Required Lenders may extend such maturity date to that date that is four months after the Petition Date, (b) the date on which the Obligations become due and payable pursuant to this Agreement, whether by acceleration or otherwise, (c) the effective date of a Chapter 11 Plan for the Debtors, (d) the date of consummation of a sale of all or substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code, (e) the first Business Day on which the Interim Order or the Canadian Supplemental Order expires by its terms, unless the Final Order or the Canadian Final Order, as applicable, has been entered and become effective prior thereto, (f) conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or any Credit Party shall file a motion or other pleading seeking the conversion of the Chapter 11 Cases to Chapter 7 of the Bankruptcy Code unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), (g) proceedings under or pursuant to the BIA have been commenced in respect of Skillsoft Canada, Ltd. unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from either of the Specified Lender Advisors), (h) dismissal or termination of any of the Chapter 11 Cases or the Canadian Recognition Proceeding, unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), and (i) the Final Order or the Canadian Final Order (once entered) is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders) (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Maximum Non-Debtor Investment Cap**" shall mean $8,000,000.

"**Maximum Withdrawal Amount**" shall mean (i) from the Funding Date until the entry of the Final Order, $30,000,000 and (ii) thereafter, all remaining amounts held in the Loan Proceeds Account; provided that the maximum amount of any requested Withdrawal shall not exceed the amount that would cause Actual Liquidity to exceed $30,000,000.

"**Moody's**" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"**Mortgage**" shall mean a mortgage, deed of trust, deed to secure debt, trust deed, or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower, together with such terms and provisions as may be required by local laws, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

"**Mortgaged Property**" shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party, and each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.11 and 9.14.

"**Multiemployer Plan**" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which any Credit Party or ERISA Affiliate makes or is obligated to make contributions, or during the five preceding calendar years, has made or been obligated to make contributions.

"**Net Cash Proceeds**" shall mean, with respect to any Prepayment Event, (i) the cash proceeds (including payments from time to time in respect of installment obligations, if applicable, but only as and when received) received by or on behalf of any Credit Party in respect of a Prepayment Event (including (x) in the case of a casualty, insurance proceeds and (y) in the case of a condemnation or similar event, condemnation awards and similar payments), as the case may be, *less* (ii) the sum of:

(a) the amount, if any, of all taxes (including in connection with any repatriation of funds) paid or reasonably estimated to be payable by any Credit Party in connection with such Prepayment Event,

(b) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (a) above) (1) directly attributable to the assets that are the subject of such Prepayment Event and (2) retained by any Credit Party; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(c) the amount of any Indebtedness (other than under or pursuant to the Pre-Petition Credit Documents or any other Indebtedness outstanding as of the Petition Date) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(d) in the case of any Casualty Event, the amount of any proceeds that the Parent or any Subsidiary has reinvested in the business of the Parent or such Subsidiary solely in order to replace the property affected by such Casualty Event (the "**Deferred Net Cash Proceeds**"); provided that any portion of the Deferred Net Cash Proceeds that has not been so reinvested within 30 days after receipt thereof (or such longer date as the Required Lenders may agree in their sole discretion (which agreement may be communicated via email by any Specified Lender Advisor)) (the "**Reinvestment Period**") shall (1) be deemed to be Net Cash Proceeds of a Casualty Event on the first day after the Reinvestment Period ends and (2) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i),

(e) [reserved],

(f) in the case of any Asset Sale Prepayment Event, any funded escrow established pursuant to the documents evidencing any such sale or disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such sale or disposition; provided that the amount of any subsequent reduction of such escrow (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction solely to the extent that any Credit Party and/or any of its Subsidiaries receives cash in an amount equal to the amount of such reduction, and

(g) all reasonable and documented fees and out of pocket expenses paid by any Credit Party to third parties in connection with such Prepayment Event (for the avoidance of doubt, including, attorney's fees, investment banking fees, survey costs, title insurance premiums, and

related search and recording charges, transfer taxes, deed or mortgage recording taxes, underwriting discounts and commissions, other customary expenses, and brokerage, consultant, accountant, and other customary fees),

in each case only to the extent not already deducted in arriving at the amount referred to in clause (i) above.

"**Non-Bank Tax Certificate**" shall have the meaning provided in Section 5.4(e)(ii)(B)(3).

"**Non-Defaulting Lender**" shall mean and include each Lender other than a Defaulting Lender.

"**Non-U.S. Lender**" shall mean any Lender that is not a U.S. Person.

"**Notice of Borrowing**" shall have the meaning provided in Section 2.3(a).

"**Notice of Conversion**" shall have the meaning provided in Section 2.6(a).

"**Obligations**" shall mean all advances to, and debts, liabilities, obligations, covenants, and duties of, any Credit Party arising under any Credit Document or otherwise with respect to Loans, in each case, entered into with any Credit Party or any of its Subsidiaries, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy, examinership or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities, and other amounts payable by any Credit Party under any Credit Document.

"**OFAC Regulations**" shall have the meaning provided in Section 8.20(b).

"**Other Taxes**" shall mean all present or future stamp, registration, court or documentary Taxes or any other excise, intangible, mortgage recording, filing or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include (i) any Taxes that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("**Assignment Taxes**") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower or (ii) Excluded Taxes.

"**Overnight Rate**" shall mean, for any day, the Federal Funds Effective Rate.

"**Parent**" shall have the meaning provided in the preamble to this Agreement.

"**Parent Entity**" shall mean any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of the Parent.

"**Participant**" shall have the meaning provided in Section 13.6(c)(i).

"**Participant Register**" shall have the meaning provided in Section 13.6(c)(ii).

"**Participating Member State**" shall mean any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

"**Patriot Act**" shall have the meaning provided in Section 13.18.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"**Pension Plan**" shall mean any employee benefit pension plan (as defined in Section 3(2) of ERISA, but excluding any Multiemployer Plan) in respect of which any Credit Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Permitted Holders**" shall mean each of the Initial Investors and their respective Affiliates (other than any operating portfolio company of an Initial Investor) and members of management of the Parent (or its direct or indirect parent) who are holders of Equity Interests of the Parent (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates (other than any portfolio company of an Initial Investor) and such members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the total outstanding Equity Interests of the Parent or any other direct or indirect parent company of the Parent.

"**Permitted Investments**" shall mean:

(i) any Investment set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor); provided that any loans or advances to non-Debtor Subsidiaries shall not exceed the Maximum Non-Debtor Investment Cap;

(ii) any Investment in cash, Cash Equivalents, or Investment Grade Securities at the time such Investment is made;

(iii) investments (i) by any Credit Party in their respective Subsidiaries that are Credit Parties and (ii) by any Subsidiary of the Parent that is not a Credit Party in any of its Subsidiaries that is not a Credit Party;

(iv) loans or advances made (i) by any Credit Party to another Credit Party or (ii) made by any Subsidiary that is not a Credit Party to a Credit Party or any other Subsidiary that is not a Credit Party; provided that any such loans and advances made by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

(v) any Investment existing or contemplated on the Closing Date and, in each case, listed on Schedule 10.5;

(vi) Investments relating to any Receivables Subsidiary that, in the good faith determination of the board of directors of the Parent, are necessary or advisable to effect a Receivables Facility or any repurchases in connection therewith; provided that to the extent any Investments are made pursuant to this clause (vi), the amount of such Investments, together with the cumulative amount of all Investments made pursuant to this clause (vi), will be included in the report delivered pursuant to Section 9.18(c) that immediately follows the making of each such Investment;

(vii) investments necessary to effectuate the transactions contemplated by the RSA;

(viii) [reserved];

(ix) Investments consisting of extensions of trade credit in the ordinary course of business set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor);

(x) any Investment in an aggregate amount not to exceed $2,000,000; and

(xi) investments constituting deposits described in clause (i) of the definition of the term "Permitted Liens".

"**Permitted Liens**" shall mean, with respect to any Person:

(i) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness), or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent or deposits made to secure obligations arising from contractual or warranty refunds, in each case incurred in the ordinary course of business;

(ii) Liens imposed by a Requirement of Law, such as carriers', warehousemen's, materialmen's, repairmen's, builders' and mechanics' Liens, arising in the ordinary course of business, in each case for sums not yet overdue for a period of more than 60 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(iii) Liens imposed by a Requirement of Law for taxes, assessments, or other governmental charges not yet overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP or for property taxes on property that the Borrower or one of its Subsidiaries, has determined in its good faith to abandon as no longer economically practical in its business or commercially desirable to maintain if the sole recourse for such tax assessment, charge, levy, or claim is to such property or are not required to be paid pursuant to Section 8.11 or the nonpayment of which is permitted or required under the Bankruptcy Code or Canadian Bankruptcy and Insolvency Law;

(iv) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal, or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) deposits securing obligations arising after the Petition Date required under or imposed by the Bankruptcy Code;

(vi) Liens securing Indebtedness permitted to be outstanding pursuant to clauses (a) or (b), (f) or (g) of Section 10.1;

(vii) Liens set forth on Schedule 10.2;

(viii) the Carve Out, the CCAA Administration Charge and the CCAA DIP Lenders' Charge;

(ix) Liens securing cash management services in the ordinary course of business and consistent with past practices;

(x) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment, or storage of such inventory or other goods;

(xi) leases, subleases, licenses, or sublicenses (including of Intellectual Property) granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Parent or any Subsidiary, are consistent with past practices and do not secure any Indebtedness to the extent in existence on the Closing Date or approved by the Required Lenders prior to the existence of such lease, sublease, license or sublicense (which approval may be communicated via email by any Specified Lender Advisor);

(xii) Liens in favor of the Parent, the Borrower, or any other Guarantor;

(xiii) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(xiv) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business and in accordance with the Approved Budget;

(xv) non-exclusive licenses of Intellectual Property granted in the ordinary course of business and in existence on the Closing Date;

(xvi) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.1(f) or Section 11.1(k);

(xvii) Liens in favor of customs and revenue authorities arising by any Requirement of Law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(xviii) Liens, in accordance with the Interim Order or Final Order, as applicable, (a) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (b) [reserved], and (c) in favor of banking or other financial institutions or other electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;

(xix) Liens granted by the Interim Order or Final Order, as applicable, and created pursuant to the Credit Documents to secure the Obligations;

(xx) Liens permitted under the Cash Management Order;

(xxi) with respect to any Foreign Subsidiary, other Liens and privileges arising mandatorily by any Requirement of Law; and

(xxii) other Liens securing obligations which do not exceed $100,000.

For purposes of this definition, the term Indebtedness shall be deemed to include interest on such Indebtedness.

"**Permitted Variance**" shall mean, commencing with the applicable Permitted Variance Commencement Date, (a) in respect of Actual Operating Disbursement Amounts, 15% for each Variance Testing Period and (b) in respect of Actual Cash Receipts, 15% for each Variance Testing Period.

"**Permitted Variance Commencement Date**" shall mean (i) with respect to Actual Operating Disbursement Amounts, the third full calendar week following the Petition Date and (ii) with respect to Actual Cash Receipts, the third full calendar week following the Petition Date.

"**Person**" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust, or other enterprise or any Governmental Authority.

"**Petition Date**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Plan**" shall mean, other than any Multiemployer Plan, any employee benefit plan (as defined in Section 3(3) of ERISA), including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be reasonably likely to be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Platform**" shall have the meaning provided in Section 13.17(a).

"**PPSA**" shall mean the Personal Property Security Act (New Brunswick), as amended from time to time, together with all regulations made thereunder; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by (i) a Personal Property Security Act as in effect in a Canadian jurisdiction other than New Brunswick or Quebec, or (ii) the Civil Code of Quebec, then "PPSA" shall mean the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable.

"**Pre-Petition**" shall mean the time period ending immediately prior to the filing of the Chapter 11 Cases.

"**Pre-Petition Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Collateral**" shall mean collectively, the "Collateral" as defined in the Pre-Petition First Lien Credit Agreement and the "Collateral" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Credit Agreements**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Credit Documents**" shall mean collectively, the "Credit Documents" as defined in the Pre-Petition First Lien Credit Agreements and the "Credit Documents" as defined in the Pre-Petition Second Lien Credit Agreements.

"**Pre-Petition First Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition First Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Indebtedness**" has the meaning assigned to such term in Section 10.5(c).

"**Pre-Petition Lenders**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Obligations**" shall mean collectively, the "Obligations" as defined in the Pre-Petition First Lien Credit Agreement and the "Obligations" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Second Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Second Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Prepack Scheduling Motion**" shall mean a motion filed by the Borrower with the Bankruptcy Court seeking entry of an order of the Bankruptcy Court scheduling a combined hearing with respect to the confirmation of the Chapter 11 Plan and the approval of the Chapter 11 Plan Disclosure Statement, in form and substance reasonably satisfactory to Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepack Scheduling Order**" shall mean an order by the Bankruptcy Court granting the Prepack Scheduling Motion, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepayment Event**" shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event or Casualty Event.

"**Prohibited Transaction**" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"**Qualified PECs**" of any Person shall mean the yield bearing preferred equity certificates, yield free preferred equity certificates or other preferred equity certificates issued by any Credit Party (other than the Parent) to the Parent prior to the Closing Date and any other substantially similar preferred equity certificates.

"**Qualified Stock**" of any Person shall mean Capital Stock of such Person other than Disqualified Stock of such Person; provided that Qualified PECs shall constitute Qualified Stock.

"**Real Estate**" shall have the meaning provided in Section 9.1(e).

"**Receivables Facility**" shall mean the Credit Agreement (and related transaction documents) dated as of December 20, 2018 among Skillsoft Receivables Financing LLC, as borrower, the lenders from time to time party thereto and CIT Bank, N.A., as administrative agent and collateral agent, as such facility may be amended, restated, supplement or otherwise modified as of the Petition Date and as may be further amended, restated, supplemented or otherwise modified from time to time in a manner reasonably acceptable to the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor).

"**Receivables Subsidiary**" shall mean any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto or another Person formed for the purposes of engaging in a Receivables Facility in which a Credit Party or any of its Subsidiary makes an Investment and to which a Credit Party or any of its Subsidiary transfers accounts receivables and related assets. On the Closing Date, Skillsoft Receivables Financing LLC is the only Receivables Subsidiary.

"**Register**" shall have the meaning provided in Section 13.6(b)(iv).

"**Regulation T**" shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation U**" shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation X**" shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Reinvestment Period**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Related Fund**" shall mean, with respect to any Lender that is a Fund, any other Fund that is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of such entity that administers, advises or manages such Lender.

"**Related Parties**" shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"**Release**" shall mean any release, spill, emission, discharge, disposal, escaping, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the environment.

"**Remedies Notice Period**" shall have the meaning assigned to such term in the DIP Order.

"**Reorganization**" shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"**Reportable Event**" shall mean any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code), other than those events as to which notice is waived pursuant to DOL Reg. § 4043.

"**Required Lenders**" shall mean, at any date, Non-Defaulting Lenders having or holding 50.1% of the sum of (a) the Total Term Loan Commitment less the Term Loan Commitments of all Defaulting Lenders at such date and (b) the outstanding principal amount of the Term Loans (excluding Term Loans held by Defaulting Lenders) at such date; provided that Term Loan Commitments held by Affiliated Institutional Lenders shall not constitute more than 49.9% of the Term Loan Commitments in any calculation of the Required Lenders for the purpose of waivers or amendments under this Agreement.

"**Required Milestones**" shall mean the "Milestones" set forth in Section 9.21 of this Agreement and any "Milestones", or such similar term, as defined in the DIP Order or the RSA, as applicable.

"**Requirement of Law**" shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule, or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"**Resignation Effective Date**" shall have the meaning provided in Section 12.9(a).

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Restricted Investment**" shall mean an Investment other than a Permitted Investment.

"**Restricted Payment**" shall have the meaning provided in Section 10.5.

"**RSA**" shall mean the Restructuring Support Agreement dated as of June 12, 2020.

"**RSA Termination Event**" shall mean an event described under Section 5 of the RSA which with the passage of time or the taking of action thereunder would result in the termination of the RSA.

"**S&P**" shall mean Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"**Sale Leaseback**" shall mean any arrangement with any Person providing for the leasing by the Parent or any Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by any Credit Party or any of its Subsidiaries to such Person in contemplation of such leasing.

"**Sanction(s)**" shall mean any international economic sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"**SEC**" shall mean the Securities and Exchange Commission or any successor thereto.

"**Secured Parties**" shall mean the Administrative Agent, the Collateral Agent, the Escrow Agent and each Lender, in each case with respect to the DIP Facility and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the DIP Facility or the Collateral Agent with respect to matters relating to any Security Document.

"**Security Documents**" shall mean, collectively, the DIP Order, the Canadian DIP Recognition Order, the U.S. Pledge Agreement, the Foreign Pledge Agreements, the Irish Security Documents, the U.S. Security Agreement, the Foreign Security Agreements, the Mortgages, and each other security agreement or other instrument or document executed and delivered pursuant to Sections 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure the Obligations or to govern the lien priorities of the holders of Liens on the Collateral.

"**Specified Lender Advisors**" shall mean (i) Gibson, Dunn & Crutcher LLP, as legal counsel, (ii) Greenhill & Co., Inc., as financial advisor and (iii) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders and/or the Required Lenders, in each case, taken as a whole.

"**Sponsor**" shall mean any of Charterhouse and its Affiliates and funds managed or advised by Charterhouse or its Affiliates but excluding operating portfolio companies of any of the foregoing.

"**Spot Rate**" for any currency shall mean the rate determined by the Administrative Agent consistent with its policies and procedures for obtaining a spot rate for such currency with another currency.

"**SPV**" shall have the meaning provided in Section 13.6(g).

"**Stock Equivalents**" shall mean all securities convertible into or exchangeable for Capital Stock and all warrants, options, or other rights to purchase or subscribe for any Capital Stock, whether or not presently convertible, exchangeable, or exercisable.

"**Subsidiary**" of any Person shall mean and include (i) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Capital Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (ii) any limited liability company, partnership, association, joint venture, or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time or (iii) in the case of any Credit Party incorporated in Ireland, any subsidiary of that Credit Party within the meaning of Sections 7 and 8 of the Companies Act 2014 (as amended) of Ireland. Unless otherwise expressly provided, all references herein to a Subsidiary shall mean a Subsidiary of the Parent.

"**Successor Case**" shall mean (i) with respect to the Chapter 11 Cases, any subsequent proceedings under Chapter 7 of the Bankruptcy Code, and (ii) with respect to the Canadian Recognition Proceeding, any subsequent proceedings under Canadian Bankruptcy and Insolvency Law.

"**Taxes**" shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings (including backup withholding), fees, or other similar charges imposed by any Governmental Authority and any interest, fines, penalties, or additions to tax with respect to the foregoing.

"**Term Loan Commitment**" shall mean, in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(b) under the Caption "Term Loan Commitment" as such Lender's Term Loan Commitment. The aggregate amount of the Term Loan Commitments as of the Closing Date is $60,000,000.

"**Term Loans**" shall have the meaning set forth in the recitals.

"**Title Policy**" shall have the meaning provided in Section 9.14(c).

"**Total Credit Exposure**" shall mean, at any date, the sum, without duplication, of (i) [reserved], (ii) the Total Term Loan Commitment at such date, and (iii) without duplication of clause (ii), the aggregate outstanding principal amount of all Term Loans at such date.

"**Total Term Loan Commitment**" shall mean the sum of the Term Loan Commitments of all Lenders.

"**Transaction Expenses**" shall mean any fees, costs, or expenses incurred or paid by any Parent Entity, the Parent, the Borrower, or any of their respective Affiliates in connection with the Transactions, this Agreement, the other Credit Documents, and the transactions contemplated hereby and thereby.

"**Transactions**" shall mean, collectively, the transactions contemplated by this Agreement, the Chapter 11 Cases, the Canadian Recognition Proceeding, the consummation of any other transactions in connection with the foregoing (including the payment of the fees and expenses incurred in connection with any of the foregoing, including to fund any original issue discount or upfront fees).

"**Transferee**" shall have the meaning provided in Section 13.6(e).

"**Type**" shall mean as to any Term Loan, its nature as an ABR Loan or a Eurocurrency Loan.

"**UCC**" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of any provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"**Unrestricted Cash on Hand**" shall mean all cash of any Subsidiary other than the Actual Cash on Hand.

"**U.S.**" and "**United States**" shall mean the United States of America.

"**U.S. Credit Parties**" shall mean the Borrower and any other U.S. Subsidiaries that are Guarantors.

"**U.S. Lender**" shall have the meaning provided in Section 5.4(e)(ii)(A).

"**U.S. Person**" shall mean any Person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**U.S. Pledge Agreement**" shall mean the Debtor-in-Possession Pledge Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Security Agreement**" shall mean the Debtor-in-Possession Security Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Subsidiary**" shall mean any Subsidiary of the Parent that is organized under the laws of the United States, any state thereof, or the District of Columbia.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Variance Testing Period**" means, as applicable, the cumulative period of four weeks ending on July 10, 2020 and every other calendar week thereafter.

"**Withdrawal**" shall mean a withdrawal from the Loan Proceeds Account made in accordance with Section 7.

"**Withdrawal Date**" shall mean the date of any Withdrawal.

"**Withdrawal Liability**" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"**Withdrawal Notice**" shall mean a notice substantially in the form attached hereto as Exhibit C to be delivered by the Borrower to the Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Loan Proceeds Account, signed by a Financial Officer of the Borrower.

"**Withholding Agent**" shall mean any Credit Party, the Administrative Agent and, in the case of any U.S. federal withholding Tax, any other applicable withholding agent.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised

under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein", "hereto", "hereof", and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Section, Exhibit, and Schedule references are to the Credit Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(h) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(i) All references to "knowledge" or "awareness" of any Credit Party or any Subsidiary thereof means the actual knowledge of an Authorized Officer of such Credit Party or such Subsidiary.

1.3 Accounting Terms.

(a) Except as expressly provided herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a consistent manner. If at any time any change in GAAP would affect the computation of any financial ratio set forth in any Credit Document or any financial definition of any other provision of any Credit Document, and the Borrower or the Required Lenders shall so request, the Administrative Agent, the Required Lenders (which request may be communicated via email by any Specified Lender Advisor) and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to approval by the Required Lenders and the Borrower); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP before such change, and Borrower shall provide to the

Administrative Agent and the Lenders within five days after delivery of each certificate or financial report required hereunder that is affected thereby a written statement of a Financial Officer of the Borrower setting forth in reasonable detail the differences that would have resulted if such financial statements had been prepared without giving effect to such change. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Parent or any Subsidiary at "fair value", as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any valuation of Indebtedness below its full stated principal amount as a result of application of Financial Accounting Standards Board Accounting Standards Update No. 2015-03, it being agreed that such Indebtedness shall at all times be valued at the full stated principal amount thereof. Notwithstanding the foregoing, all liabilities under or in respect of any lease (whether now outstanding or at any time entered into or incurred) that, under GAAP as in effect on the Closing Date, would be accrued as rental and lease expense and would not constitute a capital lease obligation in accordance with GAAP as in effect on the Closing Date shall continue to not constitute a capital lease obligation, in each case, for purposes of the covenants set forth herein and all defined terms as used therein.

1.4 [Reserved].

1.5 References to Agreements Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents), and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases, but only to the extent that such amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting such Requirement of Law.

1.6 [Reserved].

1.7 Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission, or any other matter related to the rates in the definition of Eurocurrency Rate or with respect to any comparable or successor rate thereto.

1.8 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, Contractual Requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Section 9.9 or any clause or subsection of Sections 10.1, 10.2, 10.3, 10.4, 10.5 or 0 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

1.12 [Reserved].

1.13 [Reserved].

1.14 [Reserved].

1.15 Effectuation of Transactions. All references herein to the Parent and the other Subsidiaries shall be deemed to be references to such Persons, and all the representations and warranties of the Credit Parties contained in this Agreement and the other Credit Documents shall be deemed made, in each case, after giving effect to the Transactions to occur on the Closing Date, unless the context otherwise requires.

1.16 [Reserved].

1.17 [Reserved].

Notwithstanding anything else in the Credit Documents, any reference in any of the Credit Documents to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Lien created by any of the Credit Documents to any Permitted Lien.

Section 2. Amount and Terms of Credit.

2.1 Commitments. Subject to and upon the terms and conditions herein set forth and in the DIP Order and in accordance therewith, each Lender severally, and not jointly, agrees to make the Term Loans to the Borrower in an amount equal to such Lender's Commitment in a single borrowing within three Business Days of the date of the entry of the Interim Order (such date, the "**Funding Date**"). Each Lender's Commitment shall automatically be reduced by the amount of Loans funded in respect thereof on the Funding Date; provided that, notwithstanding anything herein to the contrary, all such Commitments shall terminate automatically and be reduced to zero on June [●], 2020 to the extent that the Funding Date has not occurred on or prior to such date (or such later date as agreed to by the Borrower and the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors)). Such Term Loans (i) will at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurocurrency Loans; provided that all Term Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term Loans of the same Type, (ii) may be repaid or prepaid (without premium or penalty) in accordance with the provisions hereof, but once repaid or prepaid, may not be reborrowed, (iii) shall not exceed for any such Lender the Term Loan Commitment of such Lender, (iv) shall not exceed in the aggregate the Total Term Loan Commitments and (v) shall be funded into the Loan Proceeds Account

on the Funding Date in accordance with Section 2.4(d). The Term Loans shall be available in Dollars and not later than the Maturity Date, all then unpaid Term Loans shall be repaid in full in Dollars.

2.2 [Reserved].

2.3 Notice of Borrowing.

(a) The Borrower shall give the Administrative Agent at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least one Business Days' prior written notice in the case of a Borrowing of Term Loans to be made on the Closing Date or three (3) Business Days in the case of a Borrowing of Term Loans to be made after the Closing Date (which notice shall be delivered electronically in .pdf or other electronic imaging format acceptable to the Administrative Agent). Such notice (a "**Notice of Borrowing**") shall specify (i) the aggregate principal amount of the Term Loans to be made, (ii) the date of the Borrowing, and (iii) whether the Term Loans shall consist of ABR Loans and/or Eurocurrency Loans and, if the Term Loans are to include Eurocurrency Loans, the Interest Period to be initially applicable thereto (which shall be one month). If no election as to the Type of Borrowing is specified in any such notice, then the requested Borrowing shall be a Eurocurrency Borrowing. If no Interest Period with respect to any Borrowing of Eurocurrency Loans is specified in any such notice, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.3(a) (and the contents thereof), and of each Lender's pro rata share of the requested Borrowing.

2.4 Disbursement of Funds.

(a) No later than 1:00 p.m. (New York City time) on the Funding Date, each Lender shall make available its pro rata portion, if any, of the Borrowing requested to be made on such date in the manner provided below; provided that on the Funding Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrower, and the Administrative Agent for the purpose of consummating the Transactions.

(b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments, and in immediately available funds, to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will deposit the aggregate amounts so made available into the Loan Proceeds Account in Dollars in accordance with Section 2.4(d). Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in the applicable currency. The Administrative Agent shall also be entitled to recover from such Lender or any Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

(d) Upon receipt of all requested funds pursuant to Section 2.4(b), the Administrative Agent will promptly (i) in accordance with the Flow of Funds Statement, (I) remit to the Borrower from such amounts, all fees and expenses of counsel of the Agents, the Escrow Agent and the Specified Lender Advisors (which the Borrower shall immediately remit by wire transfer such amounts to such counsel and advisors in accordance with the Flow of Funds Statement) and (II) deduct and apply all fees payable to the Agents and the Escrow Agent on the Funding Date in accordance with the Flow of Funds Statement (including for purposes of clause (I) and (II) above in connection with any fronting arrangement), (ii) in accordance with the Flow of Funds Statement, and subject to Sections 6 and Section 7, remit to the Borrower from such amounts the amount requested by the Borrower in the Withdrawal Notice, and (iii) remit the remaining amounts by promptly crediting such amount, in like funds, to the Loan Proceeds Account. The Loans shall be deemed made by the Lenders when so remitted and applied and so deposited to such account. For the avoidance of doubt, the full amount of all Loans will begin to accrue interest on the Funding Date.

(e) For the avoidance of doubt, the Administrative Agent shall have no Commitments to make Loans in its capacity as the Administrative Agent and the Administrative Agent's requirement to remit the Loan proceeds received from the Lenders in accordance with the provisions hereof shall be limited to the funds that it receives from the Lenders.

2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Maturity Date, the then outstanding Term Loans in Dollars.

(b) [Reserved].

(c) [Reserved].

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.6(a), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is a Term Loan, the Type of each Loan made, the currency in which it is made, the name of the Borrower and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that in the event of any inconsistency between the Register and any such account or subaccount, the Register shall govern, provided, further, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any

manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

(g) The Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Closing Date, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit G, as applicable, for the sole purpose of evidencing the Loans owing to such Lender. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 13.6) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

2.6 Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 (or the Dollar Equivalent thereof) of the outstanding principal amount of Term Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any Eurocurrency Loans as Eurocurrency Loans for an additional Interest Period; provided that (i) no partial conversion of Eurocurrency Loans shall be permitted, (ii) ABR Loans may not be converted into Eurocurrency Loans if an Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) Eurocurrency Loans may not be continued as Eurocurrency Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion shall be effected by the Borrower by giving the Administrative Agent notice at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least (i) three Business Days prior, in the case of a conversion to Eurocurrency Loans (other than in the case of a notice delivered on the Funding Date, which shall be deemed to be effective on the Funding Date), or (ii) three Business Days prior in the case of a conversion into ABR Loans (each such notice, a "**Notice of Conversion**" substantially in the form of Exhibit K) specifying the Loans to be so converted, the Type of Loans to be converted into and, if such Loans are to be converted into a Eurocurrency Loans, the Interest Period to be initially applicable thereto will be one month's duration. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans. Until the Maturity Date, any Eurocurrency Loans will be continued as Eurocurrency Loans with an Interest Period of one month's duration.

(b) If any Event of Default is in existence at the time of any proposed continuation of any Eurocurrency Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such Eurocurrency Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of Eurocurrency Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrower shall be deemed to have elected to convert such Borrowing of Eurocurrency Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.

2.7 Pro Rata Borrowings. Each Borrowing of Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Term Loan Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to

be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation, under any Credit Document.

2.8 Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for ABR Loans *plus* the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each Eurocurrency Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for Eurocurrency Loans *plus* the relevant Eurocurrency Rate.

(c) Notwithstanding the foregoing, unless otherwise elected by the Required Lenders (which election not to impose the default interest rate set forth in this Section 2.8(c) may be communicated via an email from any of the Specified Lender Advisors), upon the occurrence and during the continuation of an Event of Default, Loans and all other Obligations overdue hereunder shall bear interest, after as well as before judgment, at a rate per annum equal to 2% plus the rate otherwise applicable thereto.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in the same currency in which the Loan is denominated; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, monthly in arrears on the last Business Day of each month of the Borrower, (ii) in respect of each Eurocurrency Loan, on the last day of each Interest Period applicable thereto, and (iii) in respect of each Loan, (A) on any prepayment in respect thereof, (B) at maturity (whether by acceleration or otherwise), and (C) after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of Eurocurrency Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion in respect of the making of, or conversion into or continuation as, a Borrowing of Eurocurrency Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice of the Interest Period applicable to such Borrowing, which Interest Period shall be a one month period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of Eurocurrency Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of Eurocurrency Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period in respect of a Eurocurrency Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day; and

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any Eurocurrency Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

2.10 Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or the Required Lenders and (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Eurocurrency Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such Eurocurrency Loan are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the applicable interbank market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurocurrency Rate; or

(ii) at any time, that such Lenders shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Eurocurrency Loans (including any increased costs or reductions attributable to Taxes, other than any increase or reduction attributable to Indemnified Taxes or Other Taxes) because of any Change in Law; or

(iii) at any time, that the making or continuance of any Eurocurrency Loan has become unlawful by compliance by such Lenders in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the applicable interbank market;

(such Loans, "**Impacted Loans**"), then, and in any such event, such Required Lenders (or the Administrative Agent or the Required Lenders, as applicable, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower, and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, Eurocurrency Loans shall no longer be available until such time as the Administrative Agent or the Required Lenders, as applicable, notifies the Borrower, the Administrative Agent (if applicable) and the Lenders that the circumstances giving rise to such notice by the Administrative Agent or the Required Lenders, as applicable, no longer exist (which notice shall be given at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrower with respect to Eurocurrency Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the

case of clause (ii) above, the Borrower shall pay to such Lenders, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Required Lenders, in their reasonable discretion shall determine) as shall be required to compensate such Lenders for such actual increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lenders, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lenders shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto), and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) promptly and, in any event, within the time period required by law.

Notwithstanding the foregoing, if the Administrative Agent or the Required Lenders, as applicable, has made the determination described in Section 2.10(a)(i)(x), the Required Lenders, in consultation with the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent or the Required Lenders, as applicable, revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Required Lenders or the affected Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(b) At any time that any Eurocurrency Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a Eurocurrency Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if a Notice of Borrowing or Notice of Conversion with respect to the affected Eurocurrency Loan has been submitted pursuant to Section 2.3 but the affected Eurocurrency Loan has not been funded or continued, cancel such requested Borrowing by giving the Administrative Agent written notice thereof on the same date that the Borrower was notified by Lenders pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected Eurocurrency Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such Eurocurrency Loan into an ABR Loan; provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy or liquidity of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy or liquidity occurring after the Closing Date, has or would have the effect of reducing the actual rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such actual additional amount or amounts as will compensate such Lender or its parent for such actual reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date or to the extent such Lender is not imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Borrower hereunder) under comparable syndicated credit facilities similar to the DIP Facility. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written

notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) With respect to any alternative interest rate selected by the Required Lenders pursuant to this Section 2.10: (i) no Agent or the Escrow Agent shall be bound to follow or agree to any modification to this Agreement or any other Credit Document or any such rate that would increase or materially change or affect the duties, obligations or liabilities of any Agent or the Escrow Agent (including without limitation the imposition or expansion of discretionary authority), or reduce, eliminate, limit or otherwise change any right, privilege or protection of any Agent or the Escrow Agent, or would otherwise materially and adversely affect any Agent or the Escrow Agent, in each case in its reasonable judgment, without its express written consent (such consent not to be unreasonably withheld) and (ii) any such alternative interest rate shall be administratively feasible for the Administrative Agent.

2.11 Compensation. If (a) any payment of principal of any Eurocurrency Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Eurocurrency Loan as a result of a payment or conversion pursuant to Sections 2.5, 2.6, 2.10, 5.1, 5.2, or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of Eurocurrency Loans is not made as a result of a withdrawn Notice of Borrowing or a failure to satisfy borrowing conditions, (c) any ABR Loan is not converted into a Eurocurrency Loan as a result of a withdrawn Notice of Conversion, (d) any Eurocurrency Loan is not continued as a Eurocurrency Loan, as the case may be, as a result of a withdrawn Notice of Conversion or (e) any prepayment of principal of any Eurocurrency Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), promptly pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Eurocurrency Loan. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender as specified in this Section 2.11 and setting forth in reasonable detail the manner in which such amount or amounts were determined shall be delivered to the Borrower and shall be conclusive, absent manifest error.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or other material economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.10 or 5.4.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Sections 2.10 or 2.11 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Sections 2.10 or 2.11, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of notice to the Borrower; provided

that, if the circumstances giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

2.14 [Reserved].

2.15 [Reserved]

2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Requirement of Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.9 shall be applied at such time or times as follows: *first*, as may be determined by the Administrative Agent to the payment of any amounts owing by such Defaulting Lender to any Agent or the Escrow Agent hereunder; *second*, [reserved]; *third*, [reserved]; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) [reserved]; *sixth*, to the payment of any amounts owing to the Borrower, the Lenders as a result of any judgment of a court of competent jurisdiction obtained by the Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 4 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower notifies the Administrative Agent in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other

Lenders or take such other actions as may be necessary to cause the Term Loans to be held on a pro rata basis by the Lenders in accordance with their percentages of the Term Loan Commitments, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 3. [Reserved]

Section 4. Fees

4.1 Fees.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars, for the account of each Lender (in each case pro rata according to the respective Commitments of all such Lenders), a commitment fee (the "**Commitment Fee**") on the Funding Date equal to 3.00% of the aggregate principal amount of the Term Loans.

(b) The Borrower agrees to pay (i) to the Agents and the Lenders, as applicable, for their respective accounts, the fees and other amounts due in accordance with the terms of the Fee Letter in accordance with the applicable terms thereof and (ii) to the Escrow Agent the fees set forth in the fee letter referenced in the Escrow Agreement.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this Section 4.1, except as otherwise set forth in Section 2.16(a)(iii)(B).

Section 5. Payments

5.1 Voluntary Prepayments.

(a) The Borrower shall have the right to prepay Term Loans, in each case, without premium or penalty, in whole or in part from time to time on the following terms and conditions: (1) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice of the Borrower's intent to make such prepayment, the amount of such prepayment and (in the case of Eurocurrency Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 12:00 Noon (New York City time) (i) in the case of Eurocurrency Loans, three Business Days prior to the date of such prepayment, (ii) [reserved], (iii) in the case of ABR Loans, two Business Days prior to the date of such prepayment or (iv) [reserved], (2) each partial prepayment of (i) any Borrowing of Eurocurrency Loans shall be in a minimum amount of $5,000,000 (or the Dollar Equivalent thereof) and in multiples of $1,000,000 (or the Dollar Equivalent thereof) in excess thereof, (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $500,000 in excess thereof, and (iii) [reserved]; and (3) in the case of any prepayment of Eurocurrency Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrower shall, promptly after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required pursuant to Section 2.11.

5.2 Mandatory Prepayments.

(a) Term Loan Prepayments. Subject in all respects to the DIP Order, on each occasion that a

Prepayment Event occurs, the Borrower shall, within two Business Days after receipt of the Net Cash Proceeds of any Prepayment Event (or, in the case of Deferred Net Cash Proceeds, within two Business Days after the Reinvestment Period ends), prepay, in accordance with clause (c) below, Term Loans with an equivalent principal amount equal to 100% of the Net Cash Proceeds from such Prepayment Event, unless otherwise approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors). No prepayment pursuant to this Section 5.2(a) shall be required in respect of the sale or disposition of any Foreign Subsidiary's assets to the extent such prepayment would result in material adverse tax consequences (as reasonably determined by the Borrower in consultation with the Administrative Agent) or would be prohibited or restricted by applicable law.

(b) Reinvestment Period. Until the Reinvestment Period ends, the Parent or any Subsidiary shall apply the Net Cash Proceeds from such Casualty Event solely to reinvest in the business of the Parent or such Subsidiary in order to replace the property affected by such Casualty Event; provided that the Parent and the Subsidiaries will be deemed to have complied with this Section 5.2(b) if and to the extent that, within the Reinvestment Period after the Casualty Event that generated the Net Cash Proceeds, the Parent or such Subsidiary has reinvested such proceeds within the Reinvestment Period and, in the event any such proceeds are not reinvested within the Reinvestment Period, the Parent or such Subsidiary prepays the Loans in accordance with Section 5.2(a).

(c) Application to Repayment Amounts. Each prepayment required by Section 5.2(a) shall be allocated pro rata among the Loans based on the amounts due thereunder. With respect to each such prepayment, the Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 5.2(a) two Business Days after the date of realization or receipt of such Net Cash Proceeds. Each such notice shall be irrevocable, shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment, shall be substantially in the form of Exhibit D and which shall include a calculation of the amount of such prepayment to be applied to the Term Loans requesting that the Administrative Agent provide notice of such prepayment to each Lender.

5.3 Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto not later than 1:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such Loans are denominated and all other payments under each Credit Document shall, unless otherwise specified in such Credit Document, be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York City time) or, otherwise, on the next Business Day in the Administrative Agent's sole discretion) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day for purposes of calculating interest thereon. Except as otherwise provided herein, whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next

succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

(c) Pre-Default Allocation of Payments. At all times when Section 5.3(d) does not apply and except as otherwise expressly provided herein, monies to be applied to the Obligations and the Pre-Petition Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of the Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent in their capacity as such pursuant to any Credit Document, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(vii) *Last*, the balance, if any, to the Borrower or as otherwise required by law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category.

(d) Post-Default Allocation of Payments. Notwithstanding anything herein to the contrary, after the occurrence and during the continuation of an Event of Default, the Required Lenders may elect, in lieu of the allocation of payments set forth in Section 5.3(a), that monies to be applied to the Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall, to the extent elected by the Required Lenders (in writing to the Administrative Agent), be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent pursuant to any Credit Document in their capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of the Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to pay any other Obligations until paid in full;

(vii) *Seventh*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(viii) *Last*, the balance, if any, after Full Payment of the Obligations, to the Borrower or as otherwise required by any Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. The allocations set forth in this Section 5.3(d) may be changed by agreement among the Agents, the Escrow Agent and the Lenders without the consent of any Credit Party and are subject to Section 2.16 (regarding Defaulting Lenders); *provided* that, notwithstanding the foregoing, no amendment to Section 5.3(d) shall be permitted without the consent of the Borrower which would modify the priority of the Pre-Petition Obligations set forth therein. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. Appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Obligations otherwise set forth above in this Section 5.3(d). For the avoidance of doubt, nothing contained in this Agreement shall relieve or waive payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements.

(e) If, except as otherwise expressly provided herein (subject in all respects to the Carve Out and the CCAA Administration Charge), any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other similarly situated Lender, then the Lender receiving such

greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to any Credit Party or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(g) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in any order determined by the Administrative Agent in its discretion.

5.4 Net Payments.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes.

(ii) If any Credit Party, the Administrative Agent or any other applicable Withholding Agent shall be required by applicable law to withhold or deduct any Taxes from any payment, then (A) such Withholding Agent shall withhold or make such deductions as are reasonably determined by such Withholding Agent to be required by applicable law, (B) such Withholding Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after such required withholding or deductions have been made (including any such withholding or deductions applicable to additional sums payable under this Section 5.4) each Lender (or, in the case of a payment to the Administrative Agent for its own account,

the Administrative Agent) receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of clause (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or timely reimburse the Administrative Agent or any Lender for the payment of any Other Taxes.

(c) Tax Indemnifications. Without limiting the provisions of clause (a) or (b) above, the Borrower shall indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after demand therefor, for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority as provided in this Section 5.4, the Borrower shall deliver to the Administrative Agent and the Lenders the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders and Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to withholding Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) whenever a lapse of time or change in circumstances renders such documentation obsolete, expired or inaccurate in any respect and (iii) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent. Each such Lender shall also promptly notify in writing the Borrower and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

Notwithstanding anything to the contrary in this Section 5.4, no Lender or the Administrative Agent shall be required to deliver any documentation that it is not legally eligible to deliver.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person (a "**U.S. Lender**") shall deliver to the Borrower and the Administrative Agent executed copies of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:

(1) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(2) executed copies of Internal Revenue Service Form W-8ECI (or any successor form thereto);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit J-1, J-2, J-3 or J-4, as applicable, (a "**Non-Bank Tax Certificate**"), to the effect that such Non-U.S. Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and that no payments under any Credit Document are effectively connected with such Non-U.S. Lender's conduct of a United States trade or business and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor thereto);

(4) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), Internal Revenue Service Form W-8IMY (or any successor thereto), accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue service Form W-8BEN or W-8BEN-E and/or Internal Revenue Service Form W-9 (in each case, or any successor thereto), and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the portfolio interest exemption, a Non-Bank Tax Certificate of such beneficial owner(s)) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Tax Certificate(s) may be provided by the Non-U.S. Lender on behalf of the direct or indirect partner(s)); or

(5) executed copies of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

(C) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) On or before the date the Administrative Agent (or any successor thereto) becomes a party to this Agreement, such Administrative Agent shall provide to the Borrower two duly-signed properly completed copies of the documentation prescribed in clause (A) or (B) below, as applicable (together with any required attachments): (A) IRS Form W-9 or any successor thereto, or (B)(x) IRS Form W-8ECI, or any successor thereto with respect to payments, if any, received by the Administrative Agent for its own account, and (y) with respect to payments received on account of any Lender, executed copies of IRS Form W-8IMY (or any successor form) certifying that the Administrative Agent is either (a) a "qualified intermediary" or (b) a "U.S. branch" and that payment it receives for others are not effectively connected with the conduct of a trade or business in the United States, in each case certifying that the Administrative Agent is assuming primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the accounts of others, with the effect that the Borrower can make payments to the Administrative Agent without deduction or withholding of any Taxes imposed by the United States. At any time thereafter, the Administrative Agent shall update documentation previously provided (including, if applicable, any successor forms thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. The Administrative Agent shall also promptly notify the Borrower in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section 5.4, the Administrative Agent or such Lender (as applicable) shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Parties under this Section 5.4 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be,

shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the Administrative Agent or any Lender in a less favorable net after-Tax position than the Administrative Agent or any Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Credit Party or any other Person.

(g) If the Administrative Agent is a U.S. Person, it shall provide the Borrower with two duly completed original copies of Internal Revenue Service Form W-9. If the Administrative Agent is not a U.S. Person, it shall provide applicable Internal Revenue Service Form W-8 (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Lenders.

(h) [Reserved].

(i) Each party's obligations under this Section 5.4 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under the Credit Documents.

5.5 Computations of Interest and Fees.

(a) Except as provided in the next succeeding sentence, interest on Eurocurrency Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.

(c) For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 360-day or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or such other period of time, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment

to the maximum extent permitted by or consistent with applicable laws, rules, and regulations (the "**Maximum Rate**").

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8; provided that to the extent lawful, the interest or other amounts that would have been payable but were not payable as a result of the operation of this Section shall be cumulated and the interest payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.

Without limiting the generality of the foregoing, if any provision of this Agreement would oblige any Credit Party that is organized under the laws of Canada or any Province thereof to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

(i) first, by reducing the amount or rate of interest; and

(ii) thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

5.7 Super Priority Nature of Obligations and Collateral Agent's Liens; Payment of Obligations.

(a) The priority of the Collateral Agent's Liens on the Collateral, claims and other interests shall be as set forth in the DIP Order and the Canadian DIP Recognition Order (and, for the avoidance of doubt, are subject to the Carve Out).

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Credit Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without application to or order of the Bankruptcy Court or the Canadian Bankruptcy Court.

Section 6. Conditions Precedent.

6.1 Conditions Precedent to the Closing Date. The effectiveness of this Agreement and the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion and, with respect to any condition affecting the rights and duties of the Administrative Agent, the Administrative Agent, any which waiver by the Required Lenders, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Credit Documents. This Agreement and the other Credit Documents shall be satisfactory to the Required Lenders and delivered to the Administrative Agent and the Specified Lender Advisors and there shall have been delivered to the Administrative Agent and the Specified Lender Advisors a duly executed counterpart of this Agreement and each of the other Credit Documents by the applicable parties thereto (which may include telecopy transmission of a signed signature page).

(b) Orders. (i) The Bankruptcy Court shall have entered the Interim Order, no later than three (3) Business Days after the Petition Date, and such order shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent); (ii) the Administrative Agent and the Lenders shall have received drafts of the "first day" pleadings for the Chapter 11 Cases and all materials for the Canadian Recognition Proceeding, in each case, in form and substance satisfactory to the Administrative Agent and the Required Lenders, not later than a reasonable time in advance of the Petition Date for the Administrative Agent and the Required Lenders' counsel to review and analyze the same; (iii) all motions, orders (including the "first day" orders) and other documents to be filed with or submitted to the Bankruptcy Court on the Petition Date or the Canadian Bankruptcy Court on the CCAA Filing Date shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and (iv) (a) all "first day" orders shall have been approved and entered by the Bankruptcy Court except as otherwise agreed by the Required Lenders.

(c) Initial Approved Budget; Cash Flow Forecast. The Administrative Agent and the Specified Lender Advisors shall have received (i) the Initial Approved Budget and (ii) the initial Cash Flow Forecast, each in form and substance acceptable to the Lenders.

(d) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Closing Certificate. The Administrative Agent shall have received a certificate dated as of the Closing Date and signed by a Financial Officer of the Borrower confirming compliance with Sections 6.1(d), 6.1(h) and 6.1(k), in form and substance satisfactory to the Administrative Agent and the Required Lenders.

(f) Authorization of Proceedings of the Parent, the Borrower and the Guarantors; Corporate Documents. The Administrative Agent shall have received a certificate of each Credit Party dated as of the Closing Date, which shall contain appropriate attachments, including (i) a copy of the resolutions, minutes or written consents of the board of directors, the sole director or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery, and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrower,

the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement, Articles of Association or other comparable organizational documents, as applicable, of each Credit Party as in effect on the Closing Date, (iii) signature, specimen signatures and/or incumbency certificates (or other comparable documents evidencing the same) of the Authorized Officers of each Credit Party executing any Credit Document to which it is a party and (iv) good standing certificates (to the extent applicable) in the respective jurisdictions of organization of each Credit Party.

(g) Fees. All Fees due and payable on or before the Closing Date, including, to the extent invoiced not less than one Business Day prior to the Closing Date, reimbursement or payment of the reasonable and documented expenses (including the premiums and recording taxes and fees and the reasonable and documented fees and expenses of the Specified Lender Advisors, as counsel to the Ad Hoc Group of Lenders, the Lender Advisors, the Agent Advisors and counsel to the Escrow Agent, and the fees and expenses of any local counsel of the Lenders, shall be paid (or will be paid from the proceeds of the Loans)), in each case, to the extent required to be reimbursed or paid by the Credit Parties hereunder or under any other Credit Document.

(h) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(i) Other Filings. Each of the Chapter 11 Plan, the Chapter 11 Plan Disclosure Statement, and Solicitation Motion (as defined in the RSA) shall have been or be concurrently filed with the Bankruptcy Court.

(j) Patriot Act. The Administrative Agent (or its counsel) shall have received at least three Business Days prior to the Closing Date such documentation and information as is reasonably requested in writing at least ten Business Days prior to the Closing Date by the Administrative Agent about the Credit Parties under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

(k) Assignment. Evidence that Wilmington Savings Fund Society, FSB has been assigned as administrative agent and collateral agent under each Pre-Petition Credit Agreement and the other Pre-Petition Credit Documents, such evidence in form and substance satisfactory to the Lenders and the Administrative Agent.

(l) No Default. On the Closing Date and immediately after giving effect to any Loans made on the Closing Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

For purposes of determining compliance with the conditions specified in this Section 6.1 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

6.2 Conditions Precedent to the Funding Date. In addition to the conditions set forth in Section 6.1, the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion, any which waiver, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the Funding Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(b) Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Term Loans meeting the requirements of Section 2.3(a).

(c) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA, except as otherwise waived in accordance with the terms thereof.

(d) No Default. On the Funding Date and immediately after giving effect to any Loans made on the Funding Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(e) Flow of Funds Statement. The Administrative Agent shall have received a Flow of Funds Statement, in form and substance satisfactory to the Administrative Agent and the Required Lenders.

Section 7. Conditions Precedent to Withdrawal.

7.1 Conditions Precedent to Withdrawal. Any Withdrawal on or after the Funding Date is subject to the satisfaction or waiver of the following additional conditions precedent:

(a) No Default. At the time of and immediately after giving effect to such Withdrawal and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(b) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of such Withdrawal with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(c) Bankruptcy Proceedings. (i) The DIP Order, the Canadian Interim Orders and the Canadian Final Order (to the extent required to be in effect on the date of such Withdrawal) shall not have been vacated, stayed, reversed, modified, or amended, in whole or in any part, without the Administrative Agent's and the Required Lenders' written consent and shall otherwise be in full force and effect; (ii) no

motion for reconsideration of the Final Order and/or the Canadian Final Order shall have been timely filed by a Debtor or any of their Subsidiaries; and (iii) no appeal of the Final Order and/or the Canadian Final Order shall have been timely filed.

(d) RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Fee. All fees and expenses required to be paid under the Credit Documents shall have been paid (or will be paid from the proceeds of the Loans).

(f) Approved Budget. The proceeds of the Loans shall be used as set forth in the Approved Budget (subject to the Permitted Variance).

(g) Withdrawal Notice. The Borrower has delivered to the Administrative Agent (for distribution to the Lenders and the Specified Lender Advisors) an executed Withdrawal Notice, executed by the Borrower requesting the proposed Withdrawal thereunder by no later than 1:00 p.m. (New York City time) on the Wednesday of the week (provided that in connection with the Funding Date, such Withdrawal notice may be provided at least one Business Day prior to the Funding Date) for a proposed funding of such Withdrawal on Friday of such week, which Withdrawal Notice (other than the Withdrawal Notice delivered on the Funding Date) will set forth the Actual Liquidity as of the Friday prior to the date of such Withdrawal Notice.

(h) Maximum Withdrawal. The amount of such Withdrawal does not exceed the Maximum Withdrawal Amount.

(i) Orders. Other than in connection with the Withdrawal on the Funding Date, the Canadian Bankruptcy Court shall have entered the Canadian Interim Orders, and such orders shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent).

Notwithstanding the foregoing, if the Required Lenders determine that the Borrower has failed to satisfy the conditions precedent set forth in this Section 7 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through the Specified Lender Advisors), the Administrative Agent (at the Direction of the Required Lenders) shall communicate the same to the Escrow Agent.

On any date on which the Loans shall have been accelerated, any amounts remaining in the Loan Proceeds Account, as the case may be, may be applied by the Administrative Agent to reduce the Loans then outstanding, in accordance with Section 5.3(d). None of the Credit Parties shall have (and each Credit Party hereby affirmatively waives) any right to withdraw, claim or assert any property interest in any funds on deposit in the Loan Proceeds Account upon the occurrence and continuance of any Default or Event of Default (except to fund the Carve Out).

The acceptance by the Borrower of the Loans or proceeds of a Withdrawal shall conclusively be deemed to constitute a representation by the Borrower that each of the conditions precedent set forth in Section 7 shall have been satisfied in accordance with its respective terms or has been irrevocably and expressly waived by the applicable Person; provided, however, that the making of any such Loan or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Administrative Agent, any Lender or other Secured Party of the

provisions of this Section 7 on such occasion or on any future occasion or operate as a waiver of (i) the right of Administrative Agent and Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent, the Escrow Agent or any Lender as a result of any such failure of the Credit Parties to comply with such conditions precedent.

Section 8. Representations and Warranties

In order to induce the Lenders to enter into this Agreement and to make the Loans provided for herein, the Parent and the Borrower make the following representations and warranties to each Agent, the Escrow Agent and the Lenders on the date of each Credit Event (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

8.1 Corporate Status. Each Credit Party (a) is a duly organized and validly existing corporation, limited liability company or other entity in good standing (if applicable) under the laws of the jurisdiction of its organization and subject to entry of the Interim Order or the Final Order, as applicable, and subject to any restrictions arising on account of any Credit Party's status as a "debtor" under the Bankruptcy Code, has the corporate, limited liability company or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified or authorized, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

8.2 Corporate Power and Authority. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Document constitutes the legal, valid, and binding obligation of each Credit Party enforceable in accordance with its terms, subject to the Legal Reservations.

8.3 No Violation. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the other transactions contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default (that is not excused by the Bankruptcy Code) under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of its Subsidiaries (other than Liens created under the Credit Documents, the DIP Order, any restrictions arising on account of such Credit Party's status as a "debtor" under the Bankruptcy Code, or Permitted Liens) pursuant to, the terms of any indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other instrument to which such Credit Party or any of its Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than, in the case of clause (b), to the extent any such breach, default or Lien would not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws, articles or other organizational documents of such Credit Party or any of its Subsidiaries.

8.4 Litigation. Except for the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no actions, suits or proceedings pending or, to the knowledge of any Credit Party, threatened in writing against any Credit Party or any of its Subsidiaries (a) that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (b) that involves this Agreement or the Transactions.

8.5 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6 Governmental Approvals. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, the execution, delivery and performance of each Credit Document does not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings, consents, approvals, registrations and recordings in respect of the Liens created pursuant to the Security Documents (and to release existing Liens), and (iii) such licenses, approvals, authorizations, registrations, filings or consents the failure of which to obtain or make would not reasonably be expected to result in a Material Adverse Effect.

8.7 Investment Company Act. No Credit Party nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

8.8 True and Complete Disclosure.

(a) None of the written information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Credit Parties any of their Subsidiaries or any of their respective authorized representatives to the Administrative Agent and/or any Lender on or before the Closing Date (including all such written information and data contained in the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein, contain any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time in light of the circumstances under which such information or data was furnished (after giving effect to all supplements and updates), it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections, estimates (including financial estimates, forecasts, and other forward-looking information) or other forward-looking information and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts, and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

8.9 Financial Condition; Financial Statements.

(a) The Parent has heretofore furnished to the Lenders its audited consolidated balance sheet and statement of income, stockholders equity and cash flows as of and for the fiscal years ended January 31, 2019 and January 31, 2018. Such financial statements present fairly in all material respects the combined financial position of the Parent and its Subsidiaries at the respective dates of said information, statements and results of operations for the respective periods covered thereby. The financial statements

referred to in clause (a) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements.

(b) Since January 31, 2019, there has been no event, change or condition that has had or could reasonably be excepted to have a Material Adverse Effect.

(c) Except as set forth in the financial statements referred to in Section 8.9(a), the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no liabilities of any Credit Party of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise, which would reasonably be expected to result in a Material Adverse Effect.

8.10 Compliance with Laws; No Default. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party and each of its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

8.11 Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or is excused by the Bankruptcy Court or as a result of the filing of the Chapter 11 Cases, (a) each Credit Party and each of its Subsidiaries has filed all Tax returns required to be filed by it (including in its capacity as withholding agent) and has timely paid all Taxes payable by it that have become due, and (b) there is no current or proposed Tax assessment, deficiency or other claim against any Credit Party or any of its Subsidiaries, other than, in each of clauses (a) and (b), those being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the nonpayment of which is permitted or required under the Bankruptcy Code.

8.12 Compliance with ERISA and Foreign Plans.

(a) Except as would not reasonably be expected to have a Material Adverse Effect, no ERISA Event has occurred or is reasonably expected to occur.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

(c) Except as would not reasonably be expected to have a Material Adverse Effect:

(i) All Canadian Pension Plans are duly registered under the *Income Tax Act* (Canada), applicable pension standards legislation and any other applicable laws which require registration, and no event has occurred which could reasonably be expected to cause the loss of such registered status. Schedule 8.12 describes each Canadian Benefit Plan and lists the name and registration number of each Canadian Pension Plan. The Canadian Pension Plans and the Canadian Benefit Plans have each been administered, funded and invested in accordance with the terms of particular plan, all applicable laws including, where applicable, the *Income Tax Act* (Canada) and pension standards legislation, and the terms of all applicable collective bargaining agreements and employment contracts.

(ii) All material obligations of each Credit Party (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans, the Canadian Benefit Plans and the funding agreements therefor have been performed on a timely basis. There are no outstanding disputes concerning the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No promises of material benefit improvements under the Canadian Pension Plans or the Canadian Benefit Plans have been made.

All employee and employer payments, contributions or premiums required to be withheld, made, remitted or paid to or in respect of each Canadian Pension Plan or Canadian Benefit Plan and all other amounts that are due to the pension fund of any Canadian Pension Plan from any Credit Party have been withheld, made, remitted or paid on a timely basis in accordance with the terms of such plans, any applicable collective bargaining agreement or employment contract and all applicable laws.

(iii) Any assessments owed to the Pension Fund established under the *Pension Benefits Act* (New Brunswick) or other assessments or payments required under similar legislation in any other jurisdiction, in respect of any Canadian Pension Plan have been paid when due. There has been no improper withdrawal or application of the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No event has occurred which could reasonably be expected to give rise to a partial or full termination of any Canadian Pension Plan. No event has occurred or is reasonably expected to occur that could trigger or otherwise require immediate or accelerated funding in respect of any Canadian Benefit Plan.

8.13 Subsidiaries. Schedule 8.13 sets forth (a) a correct and complete list of the name and relationship to the Parent of each Subsidiary, (b) a true and complete listing of each class of the Borrower's authorized Equity Interests, all of which issued shares are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 8.13, and (c) the type of entity of the Parent and each Subsidiary. Except as set forth on Schedule 8.13 (or, as supplemented with the consent of the Required Lenders on or prior to the Final Hearing Date, as confirmed by any Specified Lender Advisors (which approval may be communicated via an email from any of the Specified Lender Advisors)), there are no outstanding commitments or other obligations of any Credit Party to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Credit Party.

8.14 Intellectual Property. Other than as a result of the Chapter 11 Cases and subject to any necessary orders or authorization of the Bankruptcy Court, each Credit Party and its Subsidiaries owns or is licensed to use all Intellectual Property that is material to and used in or otherwise necessary for the operation of their respective businesses as currently conducted. The operation of their respective businesses by each of the Credit Parties and its Subsidiaries does not infringe upon, misappropriate, violate or otherwise conflict with the Intellectual Property of any third party, except as would not be material to the businesses of each Credit Party and its Subsidiaries.

8.15 Environmental Laws.

(a) Except as set forth on Schedule 8.15, or as would not reasonably be expected to have a Material Adverse Effect: (i) each of the Credit Parties and its Subsidiaries and their respective operations and properties are in compliance with all applicable Environmental Laws; (ii) none of the Credit Parties or any Subsidiary has received written notice of any Environmental Claim; (iii) none of the Credit Parties or any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) no underground or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by the Credit Parties or any Subsidiary.

(b) Except as set forth on Schedule 8.15, No Credit Party or any of its Subsidiaries has treated, stored, transported, Released or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of any Credit Party, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that would reasonably be expected to have a Material Adverse Effect.

8.16 Properties. Other than as a result of the Chapter 11 Cases and subject to any necessary authorization of the Bankruptcy Court:

(a) Each of the Credit Parties and its Subsidiaries has good and valid record title to, valid leasehold interests in, or rights to use, all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title or interest would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such act has been obtained in accordance with Section 9.3(b).

(b) Set forth on Schedule 8.16(b) is a list of each real property owned by any Credit Party as of the Closing Date having a Fair Market Value in excess of $1,000,000.

(c) Set forth on Schedule 8.16(c) is a list of each real property leased by any Credit Party as of the Closing Date where Collateral with an aggregate value in excess of $1,000,000 is located.

8.17 No EEA Financial Institution. No Credit Party is an EEA Financial Institution.

8.18 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of The Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the "**European Union Regulation**"), its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) is situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

8.19 [Reserved].

8.20 OFAC; USA PATRIOT Act; FCPA.

(a) On the Funding Date and each Withdrawal Date, the use of proceeds of the Loans will not violate the PATRIOT Act, OFAC Regulations, and other Anti-Terrorism Laws.

(b) To the extent applicable, each Credit Party and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto ("**OFAC Regulations**"), (ii) the USA PATRIOT Act, (iii) the FCPA and (iv) AML Legislation, the *Corruption of Foreign Public Officials Act* (Canada) and any other similar applicable law.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**").

(d) No Credit Party (i) is currently the subject of any Sanctions or (ii) is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Loan, has been used by any Credit Party, directly, to lend, contribute, provide or has otherwise made available to fund any activity or

business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender and the Administrative Agent) of Sanctions.

8.21 Security Interest in Collateral. Upon execution and delivery thereof by the parties thereto and upon the entry by the Bankruptcy Court of the Interim Order or the Final Order, as applicable, and subject to the provisions of this Agreement and the Security Documents, the Security Documents are effective to create (to the extent described therein) in favor of the Collateral Agent, for the benefit of itself and the other Secured Parties, a legal, valid and enforceable security interest in or liens on the Collateral described therein and the proceeds thereof, except as to enforcement, as the same may be limited by Bail-In Action, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing. Upon the entry by the Bankruptcy Court of the Interim Order or Final Order, as applicable, and in accordance therewith, the security interests and liens granted pursuant to the Interim Order, the Final Order and the Security Documents shall automatically, and without further action (other than, where necessary, any Foreign Law Security Filings), constitute a perfected security interest in (to the extent intended to be created thereby and required to be perfected under the Credit Documents) all right, title and interest of each pledgor or mortgagor (as applicable) party thereto in the Collateral described therein with respect to such pledgor or mortgagor (as applicable). Notwithstanding any other provision of this Agreement, capitalized terms that are used in this Section 8.21 and not defined in this Agreement are so used as defined in the applicable Security Document.

8.22 Use of Proceeds. Subject to the terms and conditions herein, the use of cash collateral and the proceeds of the Loans made hereunder shall be used by the Borrower, solely on or after the Closing Date, in accordance with the DIP Order and the Approved Budget (subject to Permitted Variances): (i) to pay related transaction costs, fees and expenses (including attorney's fees required to be paid hereunder and to fund the Carve Out) with respect to the DIP Facility, (ii) to make the adequate protection payments (if any) in accordance with the Approved Budget and the DIP Order, (iii) to fund the operation of certain non-Debtor Subsidiaries through "on-lending" or contributions of capital; provided that the proceeds of the Loans used to fund non-Debtor Subsidiaries under this Section 8.22(iii) shall not exceed the Maximum Non-Debtor Investment Cap, and (iv) to provide working capital, and for other general corporate purposes of the Credit Parties and their Subsidiaries, and to pay administration costs of the Chapter 11 Cases and the Canadian Recognition Proceeding and claims or amounts approved by the Court. The Credit Parties shall not be permitted to use the proceeds of the Loans or any cash collateral in contravention of the provisions of the Credit Documents, the DIP Order or the applicable Debtor Relief Laws, including any restrictions or limitations on the use of proceeds contained therein; provided that, no proceeds of the Loans will be used in connection with (including without limitation, to fund or prefund) any executive retention plan without the express written consent of the Required Lenders (which consent may be communicated via an email from any Specified Lender Advisor).

8.23 Insurance. The Credit Parties are in compliance with Section 9.3.

8.24 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date and the Canadian Recognition Proceedings were commenced thereafter, in accordance with applicable law and proper notice thereof was given for (x) the motion seeking approval of the Interim Order and the application seeking approval of the Canadian Interim Orders (y) the hearing for the entry of the Interim Order and the Canadian Interim Orders and (z) the hearing for the entry of the Final Order and the Canadian Final Order. The Debtors shall give, on a timely basis as specified in the Interim Order or Final Order, as applicable, all notices required to be given to all parties specified in the Interim Order or Final Order, as applicable.

(b) After entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against each Credit Party now existing or hereafter arising of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726, 1113, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under Section 364(c)(1) of the Bankruptcy Code, subject only to the Carve Out and the priorities set forth in the Interim Order or the Final Order, as applicable. After entry of the Canadian Supplemental Order, and pursuant to and to the extent permitted in the Canadian Supplemental Order and the Canadian Final Order, the Obligations of the Debtors in Canada hereunder will be secured by the CCAA DIP Lender's Charge having priority over all claims or any nature or kind against the Debtors in Canada, subject only to the CCAA Administration Charge.

(c) The Interim Order (with respect to the period prior to the entry of the Final Order) or the Final Order (with respect to the period on and after the entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors). The Canadian Supplemental Order (with respect to the period prior to the entry of the Canadian Final Order) or the Canadian Final Order (with respect to the period on and after the entry of the Canadian Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from either of the Specified Lender Advisors).

(d) Notwithstanding the provisions of Section 362 of the Bankruptcy Code and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of such Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Bankruptcy Court. Subject to the Canadian Supplemental Order or the Canadian Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of the Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Canadian Bankruptcy Court.

Section 9. Affirmative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

9.1 Information Covenants. The Borrower will furnish to the Administrative Agent and the Specified Lender Advisors:

(a) [Reserved].

(b) Quarterly Financial Statements; Monthly Financial Statements.

(i) Quarterly Financial Statements. Commencing with the fiscal quarter ending April

30, 2020, as soon as available and in any event within five days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Parent (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days (or with respect to the fiscal quarter ending April 30, 2020, 60 days) after the end of each such quarterly accounting period), the consolidated balance sheets of the Parent and the Subsidiaries as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for the elapsed portion of the fiscal year ended with the last day of the applicable quarterly period, and setting forth comparative consolidated and/or combined figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the related period in the prior fiscal year, all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with GAAP (except as noted therein), subject to changes resulting from normal year-end adjustments and the absence of footnotes.

(ii) Monthly Financial Statements. Commencing with the month ending May 31, 2020, as soon as available but in any event not later than the thirtieth (30th) day (or with respect to the month ending May 31, 2020, forty-fifth (45th) day) after the end of month, the unaudited financial summary of the financial performance, the unaudited consolidated balance sheet and the unaudited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows of the Parent and the Subsidiaries as of the end of and for such month and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year.

(c) Officer's Certificates. Concurrently with the delivery of the financial statements provided for in Sections 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth a specification of any change in the identity of the Subsidiaries as at the end of such fiscal period, as the case may be, from the Subsidiaries provided to the Lenders on the Closing Date or the most recent fiscal period, as the case may be.

(d) Notice of Material Events. Promptly (and in any event, unless otherwise set forth herein, within four Business Days thereof) after an Authorized Officer of any Credit Party or any of its Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental proceeding pending against any Credit Party or any of its Subsidiaries that would reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect and (iii) to the extent reasonably practicable, (i) at least three Business Days (provided that if delivery of such documents, motions, orders, or applications at least three Business Days in advance is not reasonably practicable prior to filing, such period for delivery may be shortened upon the consent of the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor)) prior to the date when the Borrower intends to file the RSA, any documents implementing and achieving the Transactions (as defined in the RSA) and the transactions contemplated by the Credit Documents, as applicable, including any substantive "first day" or "second day" motions, the Chapter 11 Plan and any supplement thereto, the Chapter 11 Plan Disclosure Statement, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan Disclosure Statement and the related solicitation

materials, any proposed Interim Order and Final Order, any proposed Canadian Interim Orders, Canadian Final Order or Canadian Confirmation Order, in each case, with the Bankruptcy Court or the Canadian Bankruptcy Court, as applicable, and (ii) at least one (1) calendar day (or such shorter review period as necessary or appropriate) prior to the date when the Borrower intends to file any other material pleading with the Bankruptcy Court or the Canadian Bankruptcy Court (but excluding retention applications, fee applications, and any declarations in support thereof or related thereto);

(e) Notice of Environmental Matters. Promptly (and in any event within four Business Days thereof) after an Authorized Officer of any Credit Party or any Subsidiary thereof obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not reasonably be expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate; and

(ii) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, Release or threatened Release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation or removal, remedial or other corrective action in response thereto. The term "**Real Estate**" shall mean land, buildings, facilities and improvements owned or leased by any Credit Party or any of its Subsidiaries.

(f) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by any Credit Party (or any Parent Entity) or any of its Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices, and reports that the Credit Parties or any of its Subsidiaries shall send to the holders of any publicly issued debt of the Parent and/or any of its Subsidiaries, in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent, the Specified Lender Advisors, the Crossholder Lender Advisors or any Lender may reasonably request; provided that none of the Parent nor any of its Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective contractors) is prohibited by law, or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Credit Parties and their Subsidiaries by furnishing the applicable financial statements of the Parent or any direct or indirect parent of the Parent, as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, to the extent such information relates to a parent of Parent, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Parent and its Subsidiaries on a standalone basis, on the other hand.

Documents required to be delivered pursuant to clauses (a) and (b) of this Section 9.1 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the earliest date on which (i) the Borrower

posts such documents, or provides a link thereto on the Parent's or a Parent Entity's website on the Internet; (ii) such documents are posted on behalf of the Credit Parties on IntraLinks/IntraAgency or another website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent), or (iii) such financial statements and/or other documents are posted on the SEC's website on the internet at www.sec.gov; provided that (A) the Borrower shall, at the request of the Administrative Agent, continue to deliver copies (which delivery may be by electronic transmission) of such documents to the Administrative Agent and (B) the Borrower shall in any event notify (which notification may be by facsimile or electronic transmission) the Administrative Agent of the posting of any such documents on any website described in this paragraph. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents and maintaining its copies of such documents. The Required Lenders may waive any delivery requirement set forth in this Section 9.1 (which waiver may be communicated via email by any Specified Lender Advisor).

Each Credit Party hereby acknowledges and agrees that, unless the Borrower notifies the Administrative Agent in advance, all financial statements and certificates furnished pursuant to Sections 9.1(a), (b) and (d) above are hereby deemed to be suitable for distribution, and to be made available, to all Lenders.

9.2 Books, Records, and Inspections.

(a) The Parent will, and will cause each Subsidiary to, permit officers and designated representatives of the Administrative Agent, the Specified Lender Advisors or the Required Lenders to visit and inspect any of the properties or assets of the Parent and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Parent and any such Subsidiary and discuss the affairs, finances and accounts of the Parent and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, at any time during normal business hours and upon reasonable advance notice without limitation on frequency and to such extent as the Administrative Agent, the Specified Lender Advisors or the Required Lenders may desire. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Credit Parties' independent public accountants.

(b) The Parent will, and will cause each Subsidiary to maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Parent and any such Subsidiary, as the case may be.

9.3 Maintenance of Insurance. (a) The Parent will, and will cause each of its Subsidiary to, at all times maintain in full force and effect, with insurance companies that are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis and against at least such risks (and with such risk retentions) as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis; and the Borrower will furnish to the Administrative Agent and the Specified Lender Advisors, promptly following written request from the Administrative Agent (acting at the Direction of the Required Lenders), information presented in reasonable detail as to the insurance so carried, (b) if (x) any improved portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in

effect or successor act thereto) and (y) the Collateral Agent shall have delivered a notice to the Borrower stating that such Mortgaged Property is located in such special flood hazard area with respect to which such flood insurance has been made available, then the applicable Credit Party shall (i) obtain flood insurance in such total amount and in such form as the Administrative Agent (acting at the Direction of the Required Lenders) or the Required Lenders may from time to time reasonably require, and otherwise comply with the Flood Insurance Laws, (ii) deliver to the Administrative Agent and the Specified Lender Advisors evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), including, without limitation, a copy of the flood insurance policy and a declaration page relating to the insurance policies required by this Section 9.3 which shall (1) identify the addresses of each property located in a special flood hazard area, (2) indicate the applicable flood zone designation, the flood insurance coverage and the deductible relating thereto, (3) provide that the insurer will give the Administrative Agent forty-five days written notice of cancellation or non-renewal and shall include evidence of annual renewals of such insurance and (4) be otherwise in form and substance satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) and (c) such insurance will (i) in the case of each casualty insurance policy, contain a lender loss payable endorsement that names the Collateral Agent, on behalf of the Secured Parties as the lender loss payee thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured) and (ii) in the case of each casualty insurance policy, contain an additional insured endorsement that names the Collateral Agent, on behalf of the Secured Parties as an additional insured thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured).

9.4 Payment of Taxes. The Parent or the Borrower will pay and discharge, and will cause each of its Subsidiaries to pay and discharge, all material Taxes imposed upon it (including in its capacity as a withholding agent) or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, would reasonably be expected to become a material Lien upon any properties of the Credit Parties or any of the Subsidiaries; provided that no Credit Party nor any of its Subsidiaries shall be required to pay any such Tax that is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the failure to pay (i) is permitted or required under the Bankruptcy Code or (ii) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

9.5 Preservation of Existence; Consolidated Corporate Franchises. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each Credit Party to, take all actions necessary (a) to preserve and keep in full force and effect its existence, organizational rights and authority and (b) to maintain its rights, privileges (including its good standing (if applicable)), permits, Intellectual Property rights, licenses and franchises necessary in the normal conduct of its business, in each case (other than with respect to the presentation of the existence, organizational rights and authority of the Credit Parties), except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided, however, that each Credit Party and its Subsidiaries may consummate any transaction permitted under Permitted Investments and Sections 10.2, 10.3, 10.4, or 10.5.

9.6 Compliance with Statutes, Regulations, Etc. The Parent will, and will cause each of its Subsidiary to, (a) comply with all applicable laws, rules, regulations, and orders applicable to it or its property, including, without limitation, applicable laws administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury and the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations promulgated thereunder, and all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with

and maintain, any and all licenses, approvals, notifications, registrations or permits required by Environmental Laws, and (c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives which are being timely contested in good faith by proper proceedings, except (i) in each case of (a), (b), and (c) of this Section 9.6, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect or (ii) compliance is excused by, or otherwise prohibited by, the provisions of the Bankruptcy Code or as a result of the Chapter 11 Cases.

9.7 Employee Benefit Matters. (a) The Borrower will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any of its Subsidiaries may request with respect to any Multiemployer Plan to which a Credit Party or any of its Subsidiaries is obligated to contribute; provided that if any Credit Party or any of its Subsidiaries have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent or the Required Lenders (which request may be communicated via email by any Specified Lender Advisor), such Credit Party shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) promptly after receipt thereof.

9.8 Maintenance of Properties. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear, casualty, and condemnation excepted, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

9.9 Transactions with Affiliates. The Parent and the Borrower will conduct, and cause each of the Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Credit Parties) involving aggregate payments or consideration in excess of $1,000,000 for any individual transaction or series of related transactions on terms that are at least substantially as favorable to the Credit Party or such Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, as determined by the board of directors of the Borrower or such Subsidiary in good faith; provided that the foregoing restrictions shall not apply to (a) the transactions set forth in that certain cooperation agreement among the Debtors, certain of the Pre-Petition First Lien Lenders and the Pre-Petition Second Lien Lenders, the Sponsor (as defined herein) and each of the four (4) Luxembourg parent entities of Debtor Pointwell Limited, effective as of June 12, 2020, (b) transactions permitted by Section 10.5, (c) consummation of the Transactions and the payment of the Transaction Expenses, (d) the issuance of Capital Stock or Stock Equivalents of the Parent (or any direct or indirect parent thereof) or any of its Subsidiaries not otherwise prohibited by the Credit Documents, (e) [reserved], (f) employment and severance arrangements between the Credit Parties and the Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business and in effect on the Closing Date, (g) payments by the Parent (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among the Parent (and any such parent) and the Subsidiaries, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Parent (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Parent and the Subsidiaries, solely as to any costs and expenses in an aggregate amount not to exceed $500,000, (i) [reserved], (j) transactions pursuant to any agreement or arrangement as in effect as of the Closing Date, (k) [reserved], (l) [reserved], (m) Affiliate repurchases of the Loans or Commitments to the extent permitted hereunder and the holding of such Loans or Commitments and the payments and other transactions

contemplated herein in respect thereof and (n) any customary transactions with a Receivables Subsidiary effected as part of the Receivables Facility.

9.10 End of Fiscal Years. The Parent and each of its Subsidiaries will maintain its fiscal year as in effect on the Closing Date unless the Required Lenders consent to any change to such fiscal year (which consent may be communicated via an email from any of the Specified Lender Advisors).

9.11 Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Security Documents, the Parent will take action necessary to cause each direct or indirect Subsidiary (other than any Excluded Subsidiary or any Immaterial Subsidiary (unless requested by the Required Lenders)) formed or otherwise purchased or acquired after the Closing Date and each other Subsidiary that ceases to constitute an Excluded Subsidiary, within 30 days (or 45 days with respect to any Subsidiary not organized in the United States, Canada or Ireland) from the date of such formation, acquisition, cessation or request, as applicable (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to (a) be included in the grant of liens and claims in the DIP Order or take action necessary to cause such Person and/or (b) execute a supplement to each of the Guarantee, the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and execute any of the Irish Security Documents, as applicable, and the U.S. Security Agreement or a Foreign Security Agreement, as applicable, in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent requested by the Collateral Agent (acting at the Direction of the Required Lenders), enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to the Collateral Agent (acting at the Direction of the Required Lenders) and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date and pursuant to Section 9.14(d) in the case of such Credit Parties.

9.12 Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents, the Parent will cause (i) all certificates representing Capital Stock and Stock Equivalents of any Subsidiary held directly by any Credit Party representing Collateral, (ii) [reserved] and (iii) any promissory notes evidencing Indebtedness in excess of $1,000,000 of the Credit Parties or any Subsidiary (other than any Excluded Subsidiary) that is owing to the any Credit Party, in each case, to be delivered to the Collateral Agent as security for the Obligations accompanied by undated instruments of transfer executed in blank pursuant to the terms of the Security Documents.

9.13 Use of Proceeds. The Parent and the Borrower will, and will cause each Subsidiary to use the proceeds of the Loans only for the purposes set forth in Section 8.22.

9.14 Further Assurances.

(a) Subject to the terms of Sections 9.11 and 9.12, this Section 9.14 and the Security Documents, the Parent and the Borrower will, and will cause each Credit Party to, execute any and all further documents, financing statements, agreements, and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust, and other documents) that may be required under any applicable law, or that the Collateral Agent (acting at the Direction of the Required Lenders) or the Required Lenders may reasonably request, in order to grant, preserve, protect, and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrower; provided that, notwithstanding anything to the contrary contained herein or in any other Credit Document, the Required Lenders may request the Parent to take action necessary to cause each Immaterial Subsidiary in existence

on the Closing Date, within 45 days from the date of such request (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to take all actions contemplated under Section 9.12 to become a Guarantor and to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date.

(b) Subject to any applicable limitations set forth in the Security Documents, if any assets (including any real estate or improvements thereto or any interest therein) are acquired by any Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute a fee interest in real property, the Borrower will notify the Collateral Agent, and, if requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), the Credit Parties will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or reasonably requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), including the granting of a Mortgage on such owned real estate, as soon as commercially reasonable but in no event later than 30 days thereafter (unless extended by the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) in their sole discretion), to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), shall be delivered within such time period as requested by the Required Lenders and accompanied by, in each case to the extent requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor) (w) to the extent available in the applicable jurisdiction, a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a title insurance company or similar insurer recognized in such jurisdiction, in such amounts as reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) not to exceed the Fair Market Value of the applicable Mortgaged Property, insuring the Lien of each Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Required Lenders and otherwise in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor) (the "**Title Policy**"), together with, such endorsements, coinsurance and reinsurance as the Required Lenders may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided that in no event shall the Administrative Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, (x) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor), (y) with respect to property located in the United States, a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if any improvements on such Mortgaged Property are located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) evidence the insurance required by Section 9.3 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction may be communicated by email from any of the Specified Lender Advisor), and (z) an ALTA survey in a form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) or such existing survey together with a no-change affidavit sufficient for the title company to issue the survey related endorsements and to remove all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (w) above.

(d) Post-Closing Covenant. The Parent agrees that it will, or will cause its Subsidiaries to complete each of the actions described on Schedule 9.14, in each case, as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14 with respect to such action or such later date as the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) may agree in their sole discretion.

9.15 Maintenance of Ratings. Prior to the early to occur of (i) thirty days after the Petition Date and (ii) the entry of the Final Order, the Borrower will use commercially reasonable efforts to obtain and maintain a private corporate family and/or corporate credit rating, as applicable, and ratings in respect of the credit facilities provided pursuant to this Agreement (but not maintain any specific rating), in each case, from each of S&P and Moody's or, with the consent of the Required Lenders in the event that Moody's and/or S&P are not willing to so rate the Loans, such other rating agency, as applicable, as is acceptable to the Required Lenders (which acceptance may be communicated via email from any of the Specified Lender Advisors).

9.16 Lines of Business. The Parent, the Borrower and their Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Credit Parties and their Subsidiaries, taken as a whole, on the Closing Date and other business activities which are reasonable extensions thereof.

9.17 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of the European Union Regulation, its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) shall be situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

9.18 Approved Budget.

(a) The Approved Budget shall set forth, on a weekly basis, among other things, Budgeted Cash Receipts, Budgeted Operating Disbursement Amounts, Budgeted Liquidity, Budgeted Restructuring Related Amounts and Budgeted Borrower Professional Fees for the 13-week period commencing with the first full week after the Closing Date and shall be approved by and in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors); provided that it is acknowledged and agreed by the parties hereto that the Initial Approved Budget is approved by and satisfactory to the Required Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of this Section, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors. The Approved Budget shall be updated, modified or supplemented by the Borrower from time to time in writing transmitted to the Administrative Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required Lenders (with a copy of such written consent or request concurrently delivered to the Administrative Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week after the Closing Date, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period

covered by the prior approved Approved Budget has terminated (and at all times thereafter such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Each Approved Budget shall be accompanied by such supporting documentation as reasonably requested by the Specified Lender Advisors and prepared in good faith based upon assumptions believed by the Borrower to be reasonable.

(b) For each Variance Testing Period, the Borrower shall not permit: (x) the Actual Cash Receipts to be less than Budgeted Cash Receipts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance for such Variance Testing Period and (y) Actual Operating Disbursement Amounts to exceed the Budgeted Operating Disbursement Amounts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance.

(c) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) on or before 5:00 p.m. (New York City time) on Thursday of every other week (commencing on July 16, 2020), a certificate which shall include such detail as is reasonably satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), signed by an Authorized Officer of the Borrower (i) certifying that the Credit Parties are in compliance with the covenants contained in Section 9.18(a) and (b), (ii) certifying that no Default or Event of Default has occurred or, if such a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (iii) identifying the cumulative amount of any Investments made pursuant to clause (vi) of the definition of "Permitted Investments" as of the date of such report and (iv) certifying to the amount of Actual Liquidity as of the Friday of the prior calendar week, and attaching the Approved Budget Variance Report which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period, and shall be in a form and substance satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors).

(d) The Administrative Agent and the Lenders (i) may assume that the Credit Parties will comply with the Approved Budget (subject to Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Credit Parties remain obligated to pay any and all Obligations in accordance with the terms of the Credit Documents regardless of whether such amounts exceed such estimates. Nothing in any Approved Budget shall constitute an amendment or other modification of any Credit Document or other lending limits set forth therein.

9.19 Cash Flow Forecast.

(a) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors on or before 5:00 p.m. (New York City time) on Thursday every fourth week (commencing on July 16, 2020) supplemental Cash Flow Forecasts, which shall set forth, on a weekly basis, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period. The projections delivered pursuant to this Section 9.19 shall not constitute the "Approved Budget" for any purpose hereunder.

9.20 Monthly Calls and Status Update Calls

(a) At one point during the month upon the request of the Required Lenders, with reasonable

notice and an agenda provided to management prior thereto, the Borrower shall conduct monthly telephone conferences which at the election of the Required Lenders can include, the Specified Lender Advisors, the Crossholder Lender Advisors and all or a portion of the Lenders (and can be split into (i) a Public Siders and non-Public Siders portion and (ii) a solely non-Public Sider Lenders portion) and permit questions from such Lenders and answers; provided that (I) questions from the Lenders shall be provided to the Borrower in writing no later than two (2) Business Days in advance and (II) for the avoidance of doubt, the Borrower shall not be obligated to disclose any material non-public information during the Public-Siders and non-Public-Siders portion of such telephone conferences;

(b) At the request of the Specified Lender Advisors (in consultation with the Crossholder Lender Advisors), not more than twice a month from and after the Petition Date through the Maturity Date, the Borrower shall hold a meeting (at a mutually agreeable location and time or telephonically with reasonable notice to management prior thereto) with management of the Borrower, the Specified Lender Advisors and the Crossholder Lender Advisors, which meeting, at the discretion of the Specified Lender Advisors (and the Crossholder Lender Advisors, solely with respect to the Ad Hoc Group of Crossholder Lenders), may include private side Lenders, public side Lenders and/or non-Public Sider Lenders; provided that the Specified Lender Advisors shall (i) communicate the participants to the Borrower in advance of such call or meeting and (ii) provide an agenda in advance of such call or meeting (which exercise of discretion may be communicated via an email from any of the Specified Lender Advisors) regarding the financing results, operations, compliance of the Credit Parties and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding; provided, further, that any such meeting that occurs during the same week as the telephone conference outlined in Section 9.21(a) hereof may be combined with such telephone conference; and

(c) promptly upon any reasonable request of any Specified Lender Advisor hold a telephonic meeting with such Specified Lender Advisor regarding the financing results, operations, other business developments and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding.

The Required Lenders may waive any requirements set forth in this Section 9.20 (which waiver may be communicated via e-mail by any Specified Lender Advisor).

9.21 Required Milestones. The Parent shall, or shall cause the following to occur, by the times and dates set forth below (as any such time and date may be extended, or any of such milestone set forth below may be modified, with the consent of the Required Lenders (which consent, and any consent of the Required Lenders described below may be communicated via an email from any of the Specified Lender Advisors)):

(a) By no later than one Business Day following the Petition Date, the Borrower shall file a Prepack Scheduling Motion seeking entry of the Prepack Scheduling Order, in form and substance reasonably acceptable to the Required Lenders.

(b) By no later than three Business Days following the Petition Date, the Bankruptcy Court shall enter (i) the Interim Order, and (ii) the Prepack Scheduling Order.

(c) By no later than four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada Ltd. shall have commenced the Canadian Recognition Proceeding.

(d) By no later than twenty-five calendar days following the Petition Date, the Bankruptcy Court shall enter the Final Order authorizing the DIP Facility, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(e) By no later than four Business Days following the entry of the Final Order, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Final Order.

(f) By no later than sixty calendar days following the Petition Date, the Bankruptcy Court shall enter an order confirming the Chapter 11 Plan, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(g) By no later than four Business Days following the entry of the order confirming the Chapter 11 Plan, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Confirmation Order.

(h) By no later than eighty calendar days following the Petition Date, the effective date of the Chapter 11 Plan shall have occurred.

9.22 Specified Lender Advisors.

(a) The Administrative Agent, on behalf of itself and the Lenders, the Collateral Agent, on behalf of its and the Secured Parties, the Lenders, each of the Specified Lender Advisors, on behalf of itself and the Lenders represented thereby, and the Crossholder Lender Advisors, on behalf of itself and the Lenders represented thereby, shall each be entitled to retain or continue to retain (either directly or through counsel) any advisor any Agent and the Ad Hoc Group of Lenders may deem necessary to provide advice, analysis and reporting for the benefit of the Agents or the Lenders. The Credit Parties shall pay all fees and expenses of such advisors in accordance with this Agreement and any other Credit Document, any applicable fee or engagement letters, and all such fees and expenses shall constitute Obligations and be secured by the Collateral. The Credit Parties and their advisors shall grant access to, and cooperate in all respects with, the Agents, the Lenders, the Specified Lender Advisors, the Agent Advisors and the Crossholder Lender Advisors and any other representatives of the foregoing and provide all information that such parties may request in a timely manner.

(b) The Borrower shall continue to retain the Company Advisors as company advisors consistent with the terms of their respective engagement agreements as in effect on the Closing Date or as otherwise agreed by the Required Lenders (which agreement may be communicated via an email from any of the Specified Lender Advisors).

9.23 Additional Bankruptcy Matters. The Borrower shall promptly provide the Administrative Agent, the Lenders and the Specified Lender Advisors with updates of any material developments in connection with the Credit Parties' reorganization efforts under the Chapter 11 Cases or the Canadian Recognition Proceeding, whether in connection with the sale of all or substantially all of the Parent's and its Subsidiaries' consolidated assets, the marketing of any Credit Parties' assets, the formulation of bidding procedures, auction plan, and documents related thereto, or otherwise

9.24 Debtor-in-Possession Obligations. The Borrower shall comply in a timely manner with its obligations and responsibilities as debtor-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the DIP Order, and any other order of the Bankruptcy Court or the Canadian Bankruptcy Court.

9.25 Deposit Accounts.

(a) Set forth on Schedule 9.25 is a list of each Bank Account of each Credit Party or its Subsidiaries as of the Closing Date. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree), the Borrower (or applicable Credit Party) shall enter

into a Control Agreement with each account bank, with respect to each Deposit Account (other than an Excluded Account) in which funds of any of the Credit Parties are deposited and a Control Agreement for any Securities Account (other than an Excluded Account) where securities are or may be maintained (including those existing as of the Closing Date). In addition, the Borrower (or applicable Credit Party) shall enter into a Control Agreement with respect to any such Deposit Account or Securities Account other than an Excluded Account which is established after the Closing Date, promptly and in any event within 30 days upon such establishment (or such longer period as the Required Lenders may agree in their discretion).

(b) The Borrower shall not permit more than $250,000 in the aggregate deposited in any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

9.26 Foreign Pledge. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree (which agreement may be communicated via an email from any of the Specified Lender Advisors)), the Borrower shall execute a supplement to each of the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in 100% of the equity of each Subsidiary directly owned by any Credit Party; unless the Borrower delivers a tax analysis by independent certified public accountants of recognized national standing (which may be Ernst & Young LLP) concluding that a security interest in such equity would reasonably be expected to result in a material tax consequence to the Credit Parties as determined by the Required Lenders (in consultation with the Borrower); provided that no pledge or supplement shall be required to the extent the Required Lenders determine that the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby.

Section 10. Negative Covenants

The Parent and the Borrower hereby covenants and agrees with the Lenders that on the Closing Date and thereafter, jointly and severally with all other Credit Parties, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees, and all other Obligations incurred hereunder, are paid in full that, unless consented to by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors):

10.1 Limitation on Indebtedness. The Parent and the Borrower will not, and will not permit any Subsidiary to create, incur, issue, assume, guarantee or otherwise become liable, contingently or otherwise (collectively, "**incur**" and collectively, an "**incurrence**"), with respect to any Indebtedness, and the no Credit Party will issue any shares of Disqualified Stock and will not permit any Subsidiary to issue any shares of Disqualified Stock.

The foregoing limitations will not apply to:

(a) Indebtedness arising under the Credit Documents;

(b) (x) Indebtedness under (i) the Pre-Petition First Lien Credit Agreement in an aggregate principal amount not to exceed $1,369,925,000, (ii) the Pre-Petition Second Lien Credit Agreement, in an aggregate principal amount not to exceed $670,000,000 and (iii) under the Receivables Facility, in an aggregate principal amount not to exceed $90,000,000.

(c) (i) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and (ii) intercompany Indebtedness outstanding on the Closing Date listed on Schedule 10.1;

(d) [reserved];

(e) Indebtedness incurred by any Credit Party, in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement or indemnification type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance;

(f) Capitalized Lease Obligations (i) outstanding on the Closing Date and (ii) incurred after the Closing Date in an aggregate amount not to exceed $3,000,000;

(g) Indebtedness of any Credit Party in respect of letters of credit with an aggregate face amount not to exceed $2,000,000;

(h) Indebtedness of any Credit Party owing to another Credit Party or of any Subsidiary that is not a Credit Party to another Subsidiary that is not a Credit Party;

(i) Indebtedness of any Credit Party to the extent expressly permitted in the Approved Budget;

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) Indebtedness in connection with cash management and related banking services in the ordinary course;

(n) guarantees of leases of any Credit Party in the ordinary course of business and in effect on the Closing Date;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(p) other Indebtedness in an aggregate amount not to exceed $1,000,000; and

(q) (1) any guarantee by a Credit Party of Indebtedness or other obligations of any Subsidiary that is a Credit Party or (2) by any Subsidiary that is not a Credit Party of Indebtedness of any other Subsidiary that is not a Credit Party; provided that any guarantee of Indebtedness permitted under this Section 10.1(q) is subordinated in right of payment to the Obligations; provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

10.2 Limitation on Liens. The Parent and the Borrower will not, and will not permit any of the Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any Credit Party or any Subsidiary, whether now owned or hereafter acquired (each, a "**Subject Lien**"), except if such Subject Lien is a Permitted Lien.

10.3 Limitation on Fundamental Changes. Except in connection with the Chapter 11 Plan, the Credit Parties will not, and will not permit any of the Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or

dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except that:

(a) The Credit Parties and any Subsidiary thereof may consummate transactions contemplated by the RSA;

(b) the Subsidiaries set forth on Schedule 10.3 may liquidate in the ordinary course; and

(c) so long as no Event of Default has occurred and is continuing or would result therefrom, (i) any Subsidiary of the Parent may be merged, amalgamated or consolidated with or into the Borrower in a transaction in which the Borrower is the surviving corporation and (ii) any Credit Party (other than the Parent or the Borrower) or any other Subsidiary may be merged into any other Credit Party in a transaction in which the surviving entity is a Credit Party.

10.4 Limitation on Sale of Assets. The Parent and the Borrower will not, and will not permit any of their Subsidiary to, consummate an Asset Sale, except that:

(a) any sale, transfer or disposition of (i) obsolete, worn out or surplus property or property (including leasehold property interests and Intellectual Property) that is no longer economically practical in its business or commercially desirable to maintain or no longer used or useful equipment (including any servers) in the ordinary course of business or (ii) Inventory in the ordinary course of business; provided that the Fair Market Value of all such sales, transfers and dispositions permitted by this clause (a)(i) from and after the Closing Date shall not exceed $100,000 in the aggregate at any one time outstanding;

(b) any disposition of property or assets or issuance of securities by (i) a Credit Party to a Credit Party and (ii) a Subsidiary that is not a Credit Party to a Credit Party or other Subsidiary of the Parent;

(c) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Credit Parties or any of its Subsidiaries;

(d) sales of accounts receivable, or participations therein, and related assets in connection with the Receivables Facility in accordance with the Approved Budget;

(e) other sales, transfers or dispositions pursuant to an order of the Bankruptcy Court which sale, transfer or disposition are consistent with the RSA and the Approved Budget;

(f) [reserved];

(g) [reserved];

(h) leases, assignments, subleases, licenses, or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Parent and the Subsidiaries, taken as a whole in an aggregate amount not to exceed $100,000 at any one time outstanding; and

(i) other Asset Sales in an aggregate amount not to exceed $250,000.

provided that for any Asset Sales permitted under Section 10.4(a) or (i), such Credit Party or such Subsidiary must receive consideration at the time of such Asset Sale at least equal to the Fair Market Value (determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed

of; and 100% of the consideration therefor received by such Credit Party or such Subsidiary, as the case may be, is in the form of cash or Cash Equivalents;

For the avoidance of doubt, no Credit Party will, nor will it permit any Subsidiary to, enter into any Sale Leaseback.

10.5 Limitation on Restricted Payments. The Parent and the Borrower will not, and will not permit any Subsidiary to:

(a) declare or pay any dividend or make any payment or distribution on account of any Credit Party's or any of its Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

(i) Restricted Payments to effectuate the transactions contemplated by the RSA, or

(ii) dividends or distributions by a Subsidiary so long as, a Credit Party is the recipient of such dividend or distribution or such dividend or distribution by a Subsidiary that is not a Credit Party, so long as a Subsidiary that is not a Credit Party or a Credit Party is a recipient.

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Parent or any direct or indirect parent company of the Parent, including in connection with any merger or consolidation;

(c) make any payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, the principal or interest of any Indebtedness incurred prior to the Petition Date (all such Indebtedness, including all loans under the Pre-Petition Credit Agreements and the Receivables Facility, the "**Pre-Petition Indebtedness**"), other than payment to certain creditors set forth in the Approved Budget and pursuant to an order of the Bankruptcy Court in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors); provided that notwithstanding the foregoing, the Credit Parties may make payments under the Receivables Facility in an amount not to exceed the cash collected in respect of receivables invested in the Receivables Subsidiary. Furthermore, no Credit Party will, nor will it permit any of its Subsidiaries, to amend the documents evidence any Pre-Petition Indebtedness other than as set forth in the RSA or the Chapter 11 Plan.

(d) of any Credit Party or any of its Subsidiary, repurchase or other acquisition of Pre-Petition Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(e) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (e) above (other than any exception thereto) being collectively referred to as "**Restricted Payments**").

10.6 Burdensome Agreements. The Parent and the Borrower will not, nor permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of such Credit Party or any of its Subsidiaries to:

(a) (i) pay dividends or make any other distributions to the Parent or any Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits or (ii) pay

any Indebtedness owed to the Parent or any Subsidiary;

(b) make loans or advances to the Parent or any Subsidiary; or

(c) sell, lease or transfer any of its properties or assets to the Parent or any Subsidiary; or

(d) create, incur, assume or suffer to exist any Lien on property of such Person for the benefit of the Lenders with respect to the Obligations under the Credit Documents, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions pursuant to this Agreement or in effect on the Closing Date and listed on Schedule 10.6;

(ii) the Pre-Petition Credit Documents;

(iii) purchase money obligations for property acquired in the ordinary course of business consistent with past practice and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (c) or clause (d) above on the property so acquired to the extent in existence on the Closing Date;

(iv) Requirement of Law or any applicable rule, regulation or order;

(v) [reserved];

(vi) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Parent pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary and restrictions on transfer of assets subject to Permitted Liens;

(vii) (x) secured Indebtedness otherwise permitted to be incurred pursuant to Sections 10.1 and 10.2 that limit the right of the debtor to dispose of the assets securing such Indebtedness and (y) restrictions on transfers of assets subject to Permitted Liens (but, with respect to any such Permitted Lien, only to the extent that such transfer restrictions apply solely to the assets that are the subject of such Permitted Lien);

(viii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and in existence on the Closing Date;

(ix) other Indebtedness, Disqualified Stock or preferred stock of Subsidiaries permitted to be incurred subsequent to the Closing Date pursuant to the provisions of Section 10.1;

(x) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint venture and the Equity Interests issued thereby and in effect on the Closing Date;

(xi) customary provisions contained in leases, sub-leases, licenses, sub-licenses or similar agreements, in each case, entered into in the ordinary course of business and in effect on the Closing Date; and

(xii) restrictions created in connection with the Receivables Facility as it existence on the Closing Date; provided that, any further amendments to the Receivables Facility must be

approved by the Required Lenders (such approval not to be unreasonably withheld or delayed) (which approval may be communicated by email by any Specified Lender Advisor).

10.7 [Reserved].

10.8 [Reserved].

10.9 [Reserved].

10.10 Orders. Notwithstanding anything to the contrary herein, no Credit Party nor any Subsidiary shall use any portion or proceeds of the Loans or the Collateral, or disbursements set forth in the Approved Budget, for payments or for purposes that would violate the terms of the DIP Order.

10.11 [Reserved]

10.12 Insolvency Proceeding Claims. No Credit Party nor any Subsidiary shall incur, create, assume, suffer to exist or permit any other super priority administrative claim which is pari passu with or senior to the claim of any Agent, the Escrow Agent or the Lenders against the Debtors, except as set forth in the DIP Order and the Canadian DIP Recognition Order.

10.13 Bankruptcy Actions. No Credit Party nor any of its Subsidiaries shall seek, consent to, or permit to exist, without the prior written consent of the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) (which consent shall constitute authorization under this Agreement), any order granting authority to take any action that is prohibited by the terms of this Agreement, the DIP Order or the other Credit Documents or refrain from taking any action that is required to be taken by the terms of the DIP Order or any of the other Credit Documents.

10.14 Minimum Actual Liquidity. Commencing after the initial Withdrawal from the Loan Proceeds Account on the Funding Date, the Borrower shall not permit, as of the Friday of each calendar week following the Closing Date, Actual Liquidity to be less than $10,000,000 (subject to Permitted Variances).

10.15 Canadian Pension Plans. No Credit Party in existence on the Closing Date, nor any Subsidiary created after the Closing Date (as permitted hereunder), shall, without the prior written consent of the Required Lenders (which consent may be communicated by any Specified Lender Advisor), commence to participate in a Canadian Defined Benefit Plan.

Section 11. Events of Default

11.1 Events of Default. Notwithstanding the provisions of Section 362 of the Bankruptcy Code to the extent provided in the DIP Order, without notice, application or motion, hearing before, or order of the Bankruptcy Court or the Canadian Bankruptcy Court or any notice to any Credit Party, upon the occurrence of any of the following specified events (each, an "**Event of Default**"):

(a) Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default in the payment when due (or within one day of such due date) of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

(b) Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which

made or deemed made; or

(c) Perfected Security Interest. Any Lien securing any Obligations shall cease to be a perfected, first priority Lien (subject to the Carve Out and other Liens specified in the DIP Order and the CCAA Administration Charge) with respect to any material portion of the Collateral; or

(d) ERISA and Other Employee Benefit Matters. Except to the extent excused by the Bankruptcy Court or as a result of the Chapter 11 Cases, (a) an ERISA Event or a Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States District Court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e), that, when taken together with all other such events or conditions, if any, would reasonably be expected to result in a liability to any Credit Party in excess of $500,000; or

(e) Covenants. Any Credit Party shall (i) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(d)(i), Section 9.5 (solely with respect to the Borrower), Section 9.13, 9.14(d), 9.18, 9.19, 9.20, 9.21, 9.23, 9.24, 9.25, 9.26 or Section 10 or (ii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in clause (i) or otherwise set forth in this Section 11.1) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after delivery of written notice by the Administrative Agent or the Required Lenders; or

(f) [Reserved]; or

(g) [Reserved]; or

(h) Judgments. Solely with respect to pre-petition actions, one or more judgments or decrees shall be entered against any Credit Party or any of the Subsidiaries involving a liability in excess of $1,000,000 in the aggregate for all such judgments and decrees for the Parent and the Subsidiaries (to the extent not covered by insurance or indemnities as to which the applicable creditworthy insurance company has not denied coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 30 days after the entry thereof; or

(i) Change of Control. Other than pursuant to the Chapter 11 Plan, a Change of Control shall occur; or

(j) Bankruptcy Events. The occurrence of any of the following in any of the Chapter 11 Cases or the Canadian Recognition Proceeding:

(i) other than a motion in support of the DIP Order, the bringing of a motion, taking of any action or the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto by any of the Credit Parties in the Chapter 11 Cases: (A) to obtain additional financing under Section 364(c) or Section 364(d) of the Bankruptcy Code or under the CCAA not otherwise permitted pursuant to this Agreement; (B) to grant any Lien other than the Permitted Liens; (C) except as provided in the DIP Order, to use cash collateral of (1) the Administrative Agent and the other Secured Parties under Section 363(c) of the Bankruptcy Code without the prior written consent of the Required Lenders (which approval may be communicated via an email from

any of the Specified Lender Advisors) or (2) the Pre-Petition First Lien Lenders or the Pre-Petition First Lien Agent under Section 363(c) of the Bankruptcy Code without the prior written consents of the "Required Lenders" under the Pre-Petition First Lien Credit Agreement; or (D) to take any other action or actions adverse to the Administrative Agent and Lenders or their rights and remedies hereunder, under any other Credit Documents, or their interest in the Collateral;

(ii) (A) other than in accordance with the RSA, (1) the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by a Credit Party, in each case, that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans and to which the Required Lenders do not consent or (2) if any of the Credit Parties or their Subsidiaries shall seek, support or fail to contest in good faith the filing or confirmation of any such plan or entry of any such order that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans, (B) the entry of any order terminating any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation or disclosure statement attendant thereto (or such an order is sought by any party and is not actively contested by the Credit Parties), or (C) the expiration of any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation;

(iii) the entry of an order in any of the Chapter 11 Cases confirming a plan of reorganization or plan of liquidation that is not in accordance with the RSA or otherwise acceptable to the "Requisite Consenting Creditors" as defined in the RSA in their sole discretion (which acceptance may be communicated via an email from any of the Specified Lender Advisors);

(iv) (x) the entry of an order amending, supplementing, staying, vacating or otherwise modifying the Credit Documents, the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents (including any order in respect of the Required Milestones specified herein) without the written consent of the Required Lenders or the filing by a Credit Party of a motion for reconsideration with respect to the DIP Order, or the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order shall otherwise not be in full force and effect or (y) any Credit Party or any Subsidiary shall fail to comply with the DIP Order, the Cash Management Order or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents, in any material respect;

(v) the Bankruptcy Court's or the Canadian Bankruptcy Court's entry of an order granting relief from the automatic stay under Section 362 of the Bankruptcy Code or the CCAA stay, as applicable, to permit foreclosure or to execute upon or enforce a Lien on any Collateral of a value in excess of $100,000;

(vi) [reserved];

(vii) the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of a trustee or an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Credit Parties;

(viii) (A) the dismissal or termination of any Chapter 11 Case or the Canadian Recognition Proceeding or (B) any Credit Party shall file a motion or other pleading seeking the dismissal of the Chapter 11 Cases under Section 1112 of the Bankruptcy Code or otherwise, or the

termination of the Canadian Recognition Proceeding;

(ix) any Credit Party shall file a motion (without consent of the Required Lenders) seeking, or the Bankruptcy Court or the Canadian Bankruptcy Court shall enter an order granting, relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code or the CCA stay, as applicable (A) to allow any creditor (other than the Administrative Agent) to execute upon or enforce a Lien on any Collateral, (B) approving any settlement or other stipulation not approved by the Required Lenders with any creditor of any Credit Party providing for payments as adequate protection or otherwise to such secured creditor (which approval may be communicated via an email from any of the Specified Lender Advisors) or (C) to permit other actions that would have a Material Adverse Effect on the Debtors or their estates (taken as a whole);

(x) the entry of an order in the Chapter 11 Cases or the Canadian Recognition Proceeding avoiding or requiring the disgorgement of any portion of the payments made on account of the Obligations owing under this Agreement or the other Credit Documents or the Pre-Petition Obligations owing under the Pre-Petition Credit Documents;

(xi) the failure of any Credit Party to perform any of its obligations under the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any order of the Bankruptcy Court approving any Transaction or to perform in any material respect its obligations under any order of the Bankruptcy Court approving bidding procedures;

(xii) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court or the Canadian Bankruptcy Court authorizing any claims or charges, other than in respect of this Agreement and the other Credit Documents, or as otherwise permitted under the applicable Credit Documents or permitted under the DIP Order, entitled to superpriority administrative expense claim status in any Chapter 11 Case pursuant to Section 364(c)(1) of the Bankruptcy Code or superiority pursuant to the CCAA, as applicable, pari passu with or senior to the claims of the Administrative Agent and the Secured Parties under this Agreement and the other Credit Documents, or there shall arise or be granted by the Bankruptcy Court or the Canadian Bankruptcy Court (i) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 or clause (b) of Section 507 of the Bankruptcy Code or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Credit Documents or in the DIP Order or the Canadian DIP Recognition Order then in effect (including the Carve Out and the CCAA Administration Charge);

(xiii) the DIP Order shall cease to create a valid and perfected Lien (which creation and perfection shall not require any further action other than the entry of and terms of the DIP Order) on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders;

(xiv) an order in the Chapter 11 Cases shall be entered (i) charging any of the Collateral under Section 506(c) of the Bankruptcy Code against the Administrative Agent and the Secured Parties, or the "Secured Parties" under either Pre-Petition Credit Agreement, or (ii) limiting the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date or the commencement of other legal proceeding by a Credit Party that are materially adverse to the Administrative Agent, the Secured Parties or their respective rights and remedies under the Credit Documents in any Chapter 11 Cases or inconsistent with the

Credit Documents;

(xv) any order having been entered or granted (or requested, unless actively opposed by the Credit Parties) by either any of the Bankruptcy Court, the Canadian Bankruptcy Court or any other court of competent jurisdiction materially adversely impacting the rights and interests of the Administrative Agent and the Lenders and the other Secured Parties, as determined by the Required Lenders, acting reasonably, without the prior written consent of the Administrative Agent and the Required Lenders;

(xvi) an order of the Bankruptcy Court shall be entered denying or terminating use of cash collateral by the Credit Parties authorized by the DIP Order;

(xvii) if the Final Order does not include a waiver, in form and substance satisfactory to the Administrative Agent and the Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), of (i) the right to surcharge the Collateral under Section 506(c) of the Bankruptcy Code and (ii) any ability to limit the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Pre-Petition Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date;

(xviii) any Credit Party shall challenge, support or encourage a challenge of any payments made to the Administrative Agent, any Lender or any other Secured Party with respect to the Obligations or to the Pre-Petition Agents or the Pre-Petition Lenders with respect to the Pre-Petition Obligations, or without the consent of the Administrative Agent or the "Required Lenders" as defined in the Pre-Petition First Lien Credit Agreement, the filing of any motion by the Credit Parties seeking approval of (or the entry of an order by the Bankruptcy Court or the Canadian Bankruptcy Court approving) adequate protection to any Pre-Petition Agent or lender that is inconsistent with the DIP Order;

(xix) without the Administrative Agent's and the Required Lenders' consent, the entry of any order by the Bankruptcy Court or the Canadian Bankruptcy Court granting, or the filing by any Credit Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court (in each case, other than the DIP Order and the Canadian DIP Recognition Order and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's and the Required Lenders' consent or to obtain any financing under Section 364 of the Bankruptcy Code or the CCAA other than the Credit Documents;

(xx) if, unless otherwise approved by the Administrative Agent and the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors and which approval of the Administrative Agent may be communicated via an email from the Agent Advisors), an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Cases and such order shall not be reversed or vacated within ten days;

(xxi) without Required Lender consent, any Credit Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court seeking (a) to grant or impose, under Section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior or equal to the Collateral Agent's liens and security interests (except as provided in the DIP Order or the Canadian DIP Recognition Order); or (b) to modify or affect any of the rights of the Administrative Agent, the Lenders or any other

Secured Party under the DIP Order, the Canadian DIP Recognition Order, the Credit Documents, and related documents, other than in accordance with the Chapter 11 Plan;

(xxii) any Credit Party or any Subsidiary thereof or any Debtor shall commence any legal proceeding or take any action in support of any matter set forth in this Section 11.1(j) or any other Person shall do so and such application is not contested in good faith by the Credit Parties and the relief requested is granted in an order that is not stayed pending appeal

(xxiii) any Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtors shall occur, or any material damage to or loss of material assets of any Debtor shall occur;

(xxiv) failure of any Credit Party to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to Permitted Variance) and this Agreement;

(xxv) the occurrence of any RSA Termination Event (unless waived in accordance with the terms of the RSA); or

(xxvi) the Canadian DIP Recognition Order shall cease to create the CCAA DIP Lenders Charge (which creation and perfection shall not require any further action other than the entry of and terms of the Canadian DIP Recognition Order) on the Canadian Property or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders.

11.2 Remedies Upon Event of Default.

(a) Subject to the terms of the DIP Order and the Remedies Notice Period, if any Event of Default occurs and is continuing, notwithstanding the provisions of Section 362 of the Bankruptcy Code, and any stay under the CCAA, without any application, motion or notice to, hearing before, or order from the Bankruptcy Court or the Canadian Bankruptcy Court, then, the Administrative Agent, upon the Direction of the Required Lenders (subject to Section 13) shall declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement immediately become due and payable, but without affecting the Collateral Agent's Liens or the Obligations, and the Administrative Agent, upon the request of the Required Lenders (subject to Section 13), shall: (i) terminate, reduce or restrict the right or ability of the Credit Parties to use any cash collateral; (ii) declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable, (iii) subject to the Remedies Notice Period, (A) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Credit Documents or applicable law or (B) take any and all actions described in the DIP Order; and (iv) deliver a Carve Out Trigger Notice.

(b) At any hearing during the Remedies Notice Period to contest the enforcement of remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred, and the Credit Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in way impair or restrict the rights and remedies of the Administrative Agent or the Secured Parties, as set forth in this Agreement, the applicable DIP Order, Canadian DIP Recognition Order or other Credit Documents. Except as expressly provided above in this Article VII, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

11.3 License; Access; Cooperation. Subject to any previously granted licenses, each of the Administrative Agent and the Collateral Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (to the extent permitted under the applicable licenses and without payment of royalty or other compensation to any Person) any or all Intellectual Property of Credit Parties, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral (in each case after the occurrence, and during the continuance, of an Event of Default). Each of the Administrative Agent and the Collateral Agent (together with its agents, representatives and designees) is hereby granted a non-exclusive right to have access to, and a rent free right to use, any and all owned or leased locations (including, without limitation, warehouse locations, distribution centers and store locations) for the purpose of arranging for and effecting the sale or disposition of Collateral, including the production, completion, packaging and other preparation of such Collateral for sale or disposition (it being understood and agreed that each of the Administrative Agent and the Collateral Agent and its representatives (and persons employed on their behalf), may continue to operate, service, maintain, process and sell the Collateral, as well as to engage in bulk sales of Collateral). Upon the occurrence and the continuance of an Event of Default and the exercise by the Administrative Agent or Lenders of their rights and remedies under this Agreement and the other Credit Documents, the Borrower shall assist the Administrative Agent, the Collateral Agent and Lenders in effecting a sale or other disposition of the Collateral upon such terms as are reasonably acceptable to the Administrative Agent and Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

Section 12. Administrative Agent.

12.1 Appointment.

(a) Each Lender hereby irrevocably designates and appoints Wilmington Savings Fund Society, FSB as Administrative Agent and Escrow Agent hereunder and under the other Credit Documents, as applicable, and irrevocably authorizes the Administrative Agent and the Escrow Agent, each in its respective capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent and the Escrow Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Sections 12.1, 12.9, 12.11 and 12.12 with respect to the Parent) are solely for the benefit of the Agents, the Escrow Agent and the Lenders, and none of the Parent, the Borrower or any other Credit Party shall have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement or any other Credit Document, neither Administrative Agent nor the Escrow Agent will have any duties or responsibilities, except those expressly set forth herein or in the Escrow Agreement, as applicable, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent or the Escrow Agent. In performing its functions and duties hereunder, each Agent and the Escrow Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Credit Party or any of their respective Subsidiaries.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding

any provision to the contrary elsewhere in this Agreement or any other Credit Document, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent and the Lenders and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each Lender hereby irrevocably authorizes the Administrative Agent, based upon the instruction of the Required Lenders (but subject in all respects to the RSA), to credit bid and purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted by the Administrative Agent or the Collateral Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC (or any equivalent provision of the UCC), and the PPSA, at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code, or under Canadian Bankruptcy and Insolvency Law, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Requirements of Law. In no event shall the Agent be obligated to take title to or possession of Collateral in its own name, or otherwise in a form or manner that may, in its reasonable judgment, expose it to liability; provided that if any Agent declines to take title to or possession of Collateral because it exposes it to liability, it will promptly notify the Specified Lender Advisors thereof.

(d) Each Lender irrevocably appoints each other Lender as its agent and bailee for the purpose of perfecting Liens (whether pursuant to Section 8-301(a)(2) of the UCC or otherwise), for the benefit of the Secured Parties, in assets in which, in accordance with the UCC and the PPSA or any other applicable Requirement of Law a security interest can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly following the Administrative Agent's request therefor, shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

12.2 Delegation of Duties. The Agents may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents, subagents or attorneys-in-fact selected by it in the absence of its gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

12.3 Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the creation, perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of any Credit Party to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof. The Collateral Agent shall not be under any obligation

to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party. The rights, privileges, protections, immunities and benefits given to each Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by such Agent in each Credit Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as such Agent in each of its capacities hereunder and in each of its capacities under any Credit Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Credit Document or related document, as the case may be. Notwithstanding anything contained in this Agreement to the contrary, neither Agent shall be under any obligation (i) to monitor, determine or verify the unavailability or cessation of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any date on which such rate may be required to be transitions or replaced in accordance with the terms of the Credit Documents, applicable law or otherwise, (ii) to select, determine or designate any replacement to such rate, or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate have been satisfied, (iii) to select, determine or designate any modifier to any replacement or successor index, or (iv) to determine whether or what any amendments to this Agreement or the other Credit Documents are necessary or advisable, if any, in connection with any of the foregoing. Neither Agent shall be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Agreement or any other Credit Document as a result of the unavailability of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), including as a result of any inability, delay, error or inaccuracy on the part of any other party, including without limitation the Required Lenders or the Credit Parties, in providing any direction, instruction, notice or information required or contemplated by the terms of this Agreement and reasonably required for the performance of such duties. Neither Agent shall have any liability for any interest rate published by any publication that is the source for determining the interest rates of the Loans, including but not limited to Bloomberg (or any successor source) and the Reuters Screen (or any successor source), or for any rates compiled by the ICE Benchmark Administration or any successor thereto, or for any rates published on any publicly available source, including without limitation the Federal Reserve Bank of New York's Website, or in any of the foregoing cases for any delay, error or inaccuracy in the publication of any such rates, or for any subsequent correction or adjustment thereto.

12.4 Reliance by Agents. The Agents shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including the Agent Advisors, the Lender Advisors, the Specified Lender Advisors and counsel to the Escrow Agent), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or a Direction of the Required Lender or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders or a Direction of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans; provided that the Administrative Agent and the Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or applicable law. Notwithstanding anything contained in this Credit Agreement or the other Credit Documents to the contrary, without limiting any rights,

protections, immunities or indemnities afforded to the Administrative Agent and the Collateral Agent hereunder (including without limitation this Section 12), phrases such as "satisfactory to the [Administrative] [Collateral] Agent," "approved by the [Administrative] [Collateral] Agent," "acceptable to the [Administrative] [Collateral] Agent," "as determined by the [Administrative] [Collateral] Agent," "designed by the [Administrative][Collateral] Agent", "specified by the [Administrative][Collateral] Agent", "in the [Administrative] [Collateral] Agent's discretion," "selected by the [Administrative] [Collateral] Agent," "elected by the [Administrative] [Collateral] Agent," "requested by the [Administrative] [Collateral] Agent," "in the opinion of the [Administrative] [Collateral] Agent," and phrases of similar import that authorize or permit the Administrative Agent or the Collateral Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Administrative Agent or Collateral Agent, as applicable, receiving a Direction of the Required Lenders or other written direction from the Lenders or Required Lenders, as applicable, to take such action or to exercise such rights.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders, the Escrow Agent and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable.

12.6 Non-Reliance on Administrative Agent, Collateral Agent, and Other Lenders. Each Lender expressly acknowledges that no Agent nor the Escrow Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent or the Escrow Agent hereinafter taken, including any review of the affairs of any Credit Party, shall be deemed to constitute any representation or warranty by any Agent or the Escrow Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower and each other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any of the Credit Parties. Except for notices, reports, and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent nor the Escrow Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Credit Party that may come into the possession of any Agent or the Escrow Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7 Indemnification. The Lenders agree to severally indemnify each Agent and the Escrow Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Total Credit

Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent or the Escrow Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the any Agent or the Escrow Agent under or in connection with any of the foregoing; provided that no Lender shall be liable to an Agent or the Escrow Agent for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction; provided, further, that no action taken by any Agent or the Escrow Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent and the Escrow Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent or the Escrow Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent or the Escrow Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. If any indemnity furnished to any Agent or the Escrow Agent for any purpose shall, in the opinion of such Agent or the Escrow Agent, as applicable, be insufficient or become impaired, such Agent or the Escrow Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided that in no event shall this sentence require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's pro rata portion thereof; and provided, further, this sentence shall not be deemed to require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder. The indemnity provided to each Agent and the Escrow Agent under this Section 12.7 shall also apply to such Agent's and the Escrow Agent's respective Affiliates, directors, officers, members, partners, representatives, assigns, controlling persons, employees, trustees, investment advisors and agents and successors.

12.8 Agents in Their Individual Capacities. If applicable, the agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. Each Agent, the Escrow Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Credit Party as though such Agent or the Escrow Agent were not an Agent or the Escrow Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent and the Escrow Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may

exercise the same as though it were not an Agent or the Escrow Agent, and the terms Lender and Lenders shall include each Agent and the Escrow Agent in its individual capacity.

12.9 Successor Agents.

(a) Each Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right (subject to the consent of the Borrower (not to be unreasonably withheld, delayed or conditioned) so long as no Event of Default is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (the "**Resignation Effective Date**"), then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above (including receipt of the Borrower's consent); provided that if the any Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice.

(b) [Reserved].

(c) With effect from the Resignation Effective Date, (1) the retiring or removed agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the retiring Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as the Administrative Agent or the Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section 12.9). Except as provided above, any resignation of Wilmington Savings Fund Society, FSB as the Administrative Agent pursuant to this Section 12.9 shall also constitute the resignation of Wilmington Savings Fund Society, FSB as the Collateral Agent and the Escrow Agent, subject to the terms of the Escrow Agreement. The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including Section 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender under any Credit Document an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of

a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective) or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Credit Party and without limiting the obligation of any applicable Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due to the Administrative Agent under this Section 12.10. The agreements in Section 12.10 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

12.11 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Maturity Date and Full Payment of all Obligations (except for contingent indemnification obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, (v) that constitutes Excluded Property or (vi) if approved, authorized or ratified in writing in accordance with Section 13.1; (b) release any Guarantor from its obligations under the Guarantee if such Person ceases to be a Credit Party (or becomes an Excluded Subsidiary) as a result of a transaction or designation permitted hereunder or (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (vi) (solely with respect to Section 10.1(d)), and (ix) of the definition of Permitted Lien. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Credit Parties, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, the Credit Parties or any substantial part of its property, or otherwise, all as though such payment had not been made.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrower under this Section 12.11, irrespective of any discharge of the Borrower's obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrower to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrower to the Collateral Agent under this Section 12.11 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and

payable by the Borrower to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.11.

Prior to taking any action or executing any document pursuant to this Section 12.11 or Section 12.12, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by a Financial Officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied. The Administrative Agent and the Collateral Agent shall not be liable for executing any documents or instruments pursuant to Section 12.11 or 12.12 to the extent the Collateral Agent did so upon the Direction of the Required Lenders (which consent may be provided via email by any of the Specified Lender Advisors).

12.12 Right to Realize on Collateral and Enforce Guarantee.

(a) Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrower (on behalf of itself and each other Credit Party), the Administrative Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Credit Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms hereof and thereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms thereof, and (ii) in the event of a foreclosure or similar enforcement action by the Administrative Agent or the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code), the Administrative Agent or the Collateral Agent (or any Lender, except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code) may, upon instruction from the Required Lenders, be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent or the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent at such sale or other disposition.

(b) Release of Collateral and Guarantees, Termination of Credit Documents.

(i) Notwithstanding anything to the contrary contained herein or any other Credit Document, when all Obligations have been Paid in Full and all Commitments have terminated or expired, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any other Secured Party) take such actions as shall be required or reasonably requested to release its security interest in all Collateral, and to release all guarantee obligations provided for in any Credit Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Credit Party, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, any Credit Party or any substantial part of its property, or otherwise, all as though such payment had

not been made.

(ii) The Agents shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(iii) In case of the pendency of any proceeding under the Bankruptcy Code or any other Debtor Relief Laws relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(A) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(B) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due the Administrative Agent under this Agreement) allowed in such judicial proceeding; and

(C) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

(D) and any custodian, administrator, administrative receiver, receiver, receiver and manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under this Agreement out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

(iv) Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, plan of liquidation, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

12.13 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Credit Party or any other obligor under any of the Credit Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures or cause any of the foregoing (through Affiliates or otherwise), with respect to any Collateral or any other property of any such Credit Party, without the prior written consent of the Administrative Agent (at the Direction of the Required Lenders). Without limiting the foregoing, each Lender agrees that, except as otherwise provided in any Credit Documents or with the written consent of the Administrative Agent (at the Direction of the Required Lenders), it will not take any enforcement action, accelerate Obligations under any Credit Documents, or exercise any right that it might otherwise have under applicable Requirement of Law to credit bid or purchase any portion of the Collateral at any sale or foreclosure thereof referred to in Section 12.1; provided that nothing contained in this Section shall affect any Lender's right to credit bid its pro rata share of the Obligations pursuant to Section 363(k) of the Bankruptcy Code.

12.14 Carve Out Account. In connection with the DIP Order, the Administrative Agent is hereby authorized and directed to establish and maintain a single segregated non-interest bearing trust account which shall be designated as the "Pre-Carve Out Trigger Notice Reserve Account" and a single segregated non-interest bearing trust account which shall be designated as the "Post-Carve Out Trigger Notice Reserve Account" (such accounts, collectively, the "**Carve Out Accounts**"). Funds will be deposited into and remitted from the Carve Out Accounts in accordance with and pursuant to the terms of the DIP Order.

Section 13. Miscellaneous

13.1 Amendments, Waivers, and Releases.

(a) (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. Other than with respect to any amendment, modification or waiver contemplated in the proviso to clause (i) below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (A) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (B) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or the Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (x) (i) forgive or reduce any portion of any Loan or extend the scheduled maturity date of any Loan or reduce the stated rate of interest, premium or fees (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion thereof, or extend the date for the payment of any interest,

premium or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or amend or modify any provisions of Sections 5.3(a) (with respect to the ratable allocation of any payments only) 13.9(a) or 13.20, or make any Loan, interest, Fee or other amount payable in any currency other than expressly provided herein, in each case without the written consent of each Lender directly and adversely affected thereby; provided that a waiver of any condition precedent in Sections 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial covenant definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium, interest or fees or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, in each case for purposes of this clause (i), or (ii) consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3), in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of this Agreement or any other Credit Document without the written consent of each Agent or the Escrow Agent in a manner that directly and adversely affects such Agent or the Escrow Agent, as applicable, or (iv) [reserved], or (v) [reserved], or (vi) [reserved], or (vii) release all or substantially all of the Guarantors under the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (viii) [reserved], or (ix) reduce the percentages specified in the definitions of the terms Required Lenders or amend, modify or waive any provision of this Section 13.1 that has the effect of decreasing the number of Lenders that must approve any amendment, modification or waiver, without the written consent of each Lender or (y) notwithstanding anything to the contrary in clause (x), (i) extend the final expiration date of any Lender's Commitment or (ii) increase the aggregate amount of the Commitments of any Lender, in each case, without the written consent of such Lender.

(b) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (x) that the Commitment of such Lender may not be increased or extended without the consent of such Lender, (y) for any such amendment, waiver or consent that treats such Defaulting Lender disproportionately from the other Lenders (other than because of its status as a Defaulting Lender), and (z) that the principal amount of any Loan owed to such Lender may not be decreased or reduced without the consent of such Lender.

(c) [Reserved].

(d) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Parent, the Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Parent, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

(e) [Reserved].

(f) [Reserved].

(g) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement, (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents, and (vii) if such assets constitute Excluded Property. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender. Prior to taking any action or executing any document pursuant to this section, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied.

(h) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrower and the Administrative Agent.

(i) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.1) or any other Credit Document to the contrary, (i) [reserved]; (ii) [reserved]; (iii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iv) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor) and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent (in each case acting at the Direction of the Required Lenders in their sole discretion), to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required

by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with any applicable Requirement of Law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent, the Required Lenders and the Borrower) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(j) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Required Lenders may, in their sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.12, 9.13 and 9.14 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Borrower and the other Credit Parties by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Documents.

13.2 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Parent, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Parent, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9 and 5.1 shall not be effective until received.

13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5 Payment of Expenses; Indemnification.

(a) The Borrower agrees to pay promptly following demand (and in any event as required by the DIP Order and/or the Canadian DIP Recognition Order), without the requirement of prior Bankruptcy Court approval and whether incurred before or after the Petition Date, all reasonable and documented out-of-pocket legal, accounting, appraisal, consulting, financial advisory and other fees, costs and expenses (including, without limitation, in respect of the Specified Lender Advisors, the Crossholder Lender Advisors, the Lender Advisors and the Agent Advisors) incurred by the Agents, the Ad Hoc Group of Lenders, the Ad Hoc Group of Crossholder Lenders and their respective Affiliates in connection with the negotiation, preparation and administration of the Credit Documents, the Interim Order, the Final Order, the Canadian DIP Recognition Order or incurred in connection with:

(i) amendment, modification or waiver of, consent with respect to, or termination of, any of the Credit Documents or advice in connection with the syndication and administration of the Loans made pursuant hereto, including any Withdrawal, or its rights hereunder or thereunder

(ii) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agents, any Lender, the Borrower or any other Person and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the Credit Documents, the Pre-Petition Credit Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case or proceeding commenced by or against any Credit Party or any other Person that may be obligated to the Agents or the Lenders by virtue of the Credit Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; provided that no Person shall be entitled to reimbursement under this clause (ii) in respect of any litigation, contest, dispute, suit, proceeding or action to the extent any of the foregoing results from such Person's gross negligence or willful misconduct (as determined by a final non-appealable judgment of a court of competent jurisdiction);

(iii) any attempt to enforce or prosecute any rights or remedies of the Agents or any Lender against any or all of the Credit Parties or any other Person that may be obligated to the Agents or any Lender by virtue of any of the Credit Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans prior to or during the pendency of one or more Events of Default;

(iv) any work-out or restructuring of the Obligations prior to or during the pendency of one or more Events of Default;

(v) [reserved];

(vi) the obtaining of approval of the Credit Documents by the Bankruptcy Court or any other court;

(vii) the preparation and review of pleadings, documents, orders and reports related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, attendance at meetings, court hearings or conferences related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, and general monitoring of the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases and any action, arbitration or other proceeding (whether instituted by or against the Agents, any Lender, any Credit Party, any representative of creditors of an Credit Party or any other Person) in any way relating to any

Collateral (including the validity, perfection, priority or avoidability of the Liens with respect to any Collateral), the Pre-Petition Credit Documents, Credit Documents or the Obligations, including any lender liability or other claims;

(viii) efforts to (1) monitor the Loans or any of the other Obligations, (2) evaluate, observe or assess any of the Credit Parties or their respective affairs, (3) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral or (4) settle or otherwise satisfy any charges or Liens with respect to any Collateral;

(ix) any lien searches or request for information listing financing statements or liens filed or searches conducted to confirm receipt and due filing of financing statements and security interests in all or a portion of the Collateral; and

(x) including, as to each of clauses (i) through (ix) above, all reasonable and documented professional and service providers' fees arising from such services and other advice, assistance or other representation, including those in connection with any appellate proceedings, and all reasonable and documented out-of-pocket expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 13.5, all of which shall be payable by Borrower to the Agents or the Lenders, as applicable.

Without limiting the generality of the foregoing, such reasonable expenses, costs, charges and fees may include: reasonable and documented out-of-pocket fees, costs and expenses of accountants, sales consultants, financial advisors, the Agent Advisors, any Specified Lender Advisors, any Lender Advisor, environmental advisors, appraisers, investment bankers, management and other consultants; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; air express charges, and reasonable expenses for travel, lodging and food paid or incurred in connection with the performance of such legal, professional or other advisory services; provided that, notwithstanding anything to the contrary contained in this Section 13.5(a) or in any other Credit Document, each Credit Party reaffirms its obligation to pay the fees as set forth in the Financial Advisor Engagement Letters.

(b) The Borrower (on behalf of itself and the other Credit Parties) agrees to pay, indemnify and hold harmless each Lender, each Agent and their respective Related Parties (without duplication) (the "**Indemnified Persons**") from and against any and all losses, claims, damages, liabilities, obligations, demands, actions, judgments, suits, costs, expenses, disbursements or penalties of any kind or nature whatsoever (and the reasonable and documented fees, expenses, disbursements and other charges of any Specified Lender Advisors, any Lender Advisors and the Agent Advisors owed pursuant to Section 13.5(a)) of any such Indemnified Person arising out of or relating to any action, claim, litigation, investigation or other proceeding (regardless of whether such Indemnified Person is a party thereto), arising out of any Commitment, Loan or the use or proposed use of the proceeds therefrom, arising out of, or with respect to the Transactions or to the execution, delivery, performance, administration and enforcement of this Agreement, the other Credit Documents and any such other documents, agreements, letters or instruments delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, including any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law or any actual or alleged presence, Release or threatened Release of Hazardous Materials attributable to any Credit Party or any of its Subsidiaries (all the foregoing in this clause (iii), regardless of whether brought by any Credit Party, any of its subsidiaries or any other Person collectively, the "**Indemnified Liabilities**"); provided that the Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from (i) the gross negligence, bad faith or willful misconduct of such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, (ii) a material

breach of the obligations of such Indemnified Person (other than with respect to each Agent) or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (iii) any proceeding between and among Indemnified Persons that does not involve an act or omission by any Credit Party or any of their respective Subsidiaries; provided the Agents, to the extent acting in their capacity as such, shall remain indemnified in respect of such proceeding, to the extent that the exception set forth in the immediately preceding clause (i) of the immediately preceding proviso does not apply to such Agent at such time. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(c) Each Indemnified Person agrees (x) that the Borrower shall have no obligation to reimburse such Indemnified Person for fees and expenses and (y) to return and refund any and all amounts paid by the Borrower pursuant to this Section 13.5, in the case of each of clauses (x) and (y), to the extent such Indemnified Person is not entitled to payment of such amounts in accordance with the terms of the Credit Documentation.

(d) No Credit Party or Indemnified Person (or any Related Party of an Indemnified Person) shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that the foregoing shall not limit the Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.5(a) or under any other provision of this Agreement or any of the other Credit Agreement Documents. No Indemnified Person (or any Related Party of an Indemnified Person) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) All amounts reimbursable by the Borrower under this Section 13.5 shall constitute Obligations secured by the Collateral. The agreements in this Section 13.5 shall survive the termination of the Commitments and repayment of all other Obligations. All amounts due under this Section 13.5 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto. If the Borrower fail to pay when due any amounts payable by it hereunder or under any Credit Document, such amount may be paid on behalf of the Borrower by the Administrative Agent in its discretion by charging any loan account(s) of the Borrower, without notice to or consent from the Borrower, and any amounts so paid shall constitute Obligations hereunder.

13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby,

the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below and Section 13.7, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of

(A) the Parent; provided that no consent of the Borrower shall be required for (1) an assignment Loans or Commitments of to a Lender, an Affiliate of a Lender, or an Approved Fund or (2) an assignment of Loans or Commitments to any assignee if an Event of Default has occurred and is continuing or (3) so long as made in accordance with the RSA; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

The Parent's consent shall be deemed to have been given if the Borrower has not responded within four Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 in the case of Term Loans (and shall, in each case be in an integral multiple thereof), unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld, delayed or conditioned) or, if less, the assignment constitutes all of the applicable Lender's Term Loans; provided that no such consent of the Borrower shall be required if an Event of Default under Section 11.1(a) has occurred and is continuing; provided, further, that contemporaneous assignments by a Lender and its Affiliates or Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above (and simultaneous assignments to or by two or more Related Funds shall be treated as one assignment), if any;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of the Term Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic

settlement system or other method reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "**Administrative Questionnaire**") and applicable tax forms (as required under Section 5.4(e)); and

(E) any assignment to an Affiliated Lender (other than an Affiliated Institutional Lender) shall also be subject to the requirements of Section 13.6(h); and

(F) such assignment shall be permitted by, and in accordance with, the RSA.

For the avoidance of doubt, the Administrative Agent bears no responsibility for tracking or monitoring assignments to or participations by any Affiliated Lender.

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(v) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and the other Credit Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 3.5, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6. For the avoidance of doubt, in case of an assignment to a new Lender pursuant to this Section 13.6, (i) the Administrative Agent, the new Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the new Lender been an original Lender signatory to this Agreement with the rights and/or obligations acquired or assumed by it as a result of the assignment and to the extent of the assignment the assigning Lender shall each be released from further obligations under the Credit Documents and (ii) the benefit of each Security Document shall be maintained in favor of the new Lender.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans (and stated interest amounts) owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent, the Administrative Agent and its Affiliates and, with respect to itself, any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Borrower hereby designates the Administrative Agent to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 13.6(b)(iv). This Section 13.6(b)(iv) shall

be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury Regulations (or any other relevant or successor provisions of the Code or of such Treasury Regulations).

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (as required under Section 5.4(e) unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause (b)(v).

(c) (i) Any Lender may, without the consent of, or notice to the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (other than (x) a natural person, (y) any Credit Party or any of their Subsidiaries and (z) [reserved] (each, a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (i) and (vii) of the third proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11, 3.5, and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4) (it being agreed that any documentation required under Section 5.4(e) shall be provided to the participating Lender)). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.9(b) as though it were a Lender; provided such Participant shall be subject to Section 13.9(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than the applicable Lender would have been entitled to receive absent the sale of such the participation sold to such Participant, except to the extent such entitlement to a greater payment results from a Change in Law after the sale of the participations takes place. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) except to the extent that such disclosure is necessary in connection with a tax audit or other proceeding to establish that such commitment, loan, or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(d) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, or other central bank having jurisdiction over such Lender, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "**Transferee**") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPV**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other Person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) subject to Section 13.16, disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement but subject to the following sentence, each SPV shall be entitled to the benefits of Sections 2.10, 2.11, 3.5 and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender

and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4 (it being agreed that any documentation required under Section 5.4(e) shall be provided to the Granting Lender)). Notwithstanding the prior sentence, an SPV shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than its Granting Lender would have been entitled to receive absent the grant to such SPV, unless such grant to such SPV is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

(h) Notwithstanding anything to the contrary contained herein (and so long as no Event of Default is then continuing), (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender; provided that:

(i) [reserved];

(ii) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (I) attend or participate in (including, in each case, by telephone) any meeting (including "Lender only" meetings) or discussions (or portion thereof) among the Administrative Agent or any Lender at which representatives of the Borrower are not then present, (II) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders or any other material which is "Lender only", except to the extent such information or materials have been made available to the Borrower or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Section 2) or receive any advice of counsel to the Administrative Agent or (III) make any challenge to the Administrative Agent's or any other Lender's attorney-client privilege on the basis of its status as a Lender; and

(B) except with respect to any amendment, modification, waiver, consent or other action (I) in Section 13.1 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (II) that alters an Affiliated Lender's pro rata share of any payments given to all Lenders, or (III) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and, in the case of a plan of reorganization that does not affect the Affiliated Lender in a manner that is materially adverse to such Affiliated Lender relative to other Lenders, shall be deemed to have voted its interest in the Term Loans in the same proportion as the other Lenders) (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph); and

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders may not exceed 25% of the aggregate principal amount of all Term Loans outstanding at the time of such purchase.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders. None of the Borrower, the Parent, any other Subsidiary of the Parent or any Affiliated Lender shall be required to make any representation that it is not in possession of information which is not publicly available and/or material with respect to the Parent, the Borrower and their respective Subsidiaries or their respective securities for purposes of U.S. federal and state securities laws and all parties to the relevant transactions shall render customary "big boy" disclaimer letters.

(i) Notwithstanding anything to the contrary contained herein, the Lenders hereto on the Funding Date may assign all or a portion of its rights and obligations under this Agreement in respect of the Term Loans on the Funding Date to an Affiliated Lender or any Pre-Petition Lender (or any Affiliated Lender thereof) in connection with the syndication of the Term Loans contemplated in the RSA.

13.7 [Reserved]

13.8 Replacement of Lenders Under Certain Circumstances.

(a) The Borrower, at its cost and expense (which, for the avoidance of doubt, may be shared with the replacement institution with such institution's consent), shall be permitted to replace any Lender, and in the case of a Lender repay all Obligations of the Borrower due and owing to such Lender relating to the Loans that (a) requests reimbursement for amounts owing pursuant to Sections 2.10 or 5.4, (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, or (c) becomes a Defaulting Lender, with a replacement bank or other financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts pursuant to Sections 2.10, 2.11, 5.4 or 13.5, as the case may be, owing to such replaced Lender prior to the date of replacement, (iv) the replacement bank or institution, if not already a Lender, an Affiliate of the Lender, an Affiliated Lender or Approved Fund, and the terms and conditions of such replacement, shall be satisfactory to the Required Lenders, (v) the replacement bank or institution, if not already a Lender shall be subject to the provisions of Section 13.6(a), (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that unless otherwise agreed the Borrower shall be obligated to pay the registration and processing fee referred to therein), and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, any Agent, the Escrow Agent or any other Lender shall have against the replaced Lender. Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 13.7 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

13.9 Adjustments; Set-off. Subject to Section 12.13, the Carve Out and the CCAA Administration Charge,

(a) Except as contemplated in Section 13.6 or elsewhere herein, if any Lender (a **"Benefited Lender**") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(e), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders;

provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) Subject to the DIP Order, after the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final) (other than payroll, trust, tax, fiduciary, and petty cash accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify the Credit Parties and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.10 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

13.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13.12 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Agents, the Escrow Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrower, the other Credit Parties, any Agent, the Escrow Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents. To the extent there are any inconsistencies between the terms of this Agreement or any Credit Document and the DIP Order, the provisions of the DIP Order shall govern.

13.13 GOVERNING LAW; CONSENT TO SERVICE OF PROCESS.

(a) THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THE LAW OF THE STATE OF NEW YORK IS SUPERSEDED BY THE BANKRUPTCY CODE.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT SHALL BE BROUGHT IN THE BANKRUPTCY COURT, AND, IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM) JURISDICTION, IN THE COURTS OF THE STATE OF NEW YORK AND THE COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE LOCATED IN NEW YORK COUNTY, AND APPELLATE COURTS FROM ANY THEREOF, AND, BY

EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS. EACH PARTY HERETO HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF THE BANKRUPTCY COURT AND IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE AGENT AT ITS ADDRESS FOR NOTICES AS SET FORTH HEREIN. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY OTHER PARTY IN ANY OTHER JURISDICTION. EACH OF THE PARTIES HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN SUCH COURT AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS.

13.14 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution, and delivery of this (a) it has been advised by counsel in the negotiation, execution, and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower and the other Credit Parties, on the one hand, and the Administrative Agent, the Lenders, the other Agents and the Escrow Agent on the other hand, and the Borrower and the other Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof);

(i) in connection with the process leading to such transaction, each of the Administrative Agent, the other Agents and the Escrow Agent, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees, or any other Person;

(ii) neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, other Agents, the Escrow Agent or any Lender has advised or is currently advising the Borrower, the

other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent, other Agents, the Escrow Agent nor any Lender has any obligation to the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents;

(iii) the Administrative Agent, each other Agent, the Escrow Agent, each Lender and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and their Affiliates, and neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and

(iv) neither the Administrative Agent, any other Agent, the Escrow Agent any Lender nor any of their respective Affiliates has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby agrees (on behalf of itself and the other Credit Parties) that it will not claim that any Agent or the Escrow Agent owes a fiduciary or similar duty to the Credit Parties in connection with the Transactions contemplated hereby and waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, any other Agent, the Escrow Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

13.15 WAIVERS OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.16 Confidentiality. The Administrative Agent, each other Agent and each Lender (collectively, the "**Restricted Persons**" and, each a "**Restricted Person**") shall treat confidentially all non-public information provided to any Restricted Person by or on behalf of any Credit Party hereunder with respect to such Credit Party or any of its Subsidiaries and their businesses in connection with such Restricted Person's evaluation of whether to become a Lender hereunder or obtained by such Restricted Person pursuant to the requirements of this Agreement ("**Confidential Information**") and shall not publish, disclose or otherwise divulge such Confidential Information; provided that nothing herein shall prevent any Restricted Person from disclosing any such Confidential Information (a) pursuant to the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by applicable law, rule or regulation or compulsory legal process (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (b) upon the request or demand of any regulatory authority having jurisdiction over such Restricted Person or any of its Affiliates (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority) to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (c) to the extent that such Confidential Information becomes

publicly available other than by reason of improper disclosure by such Restricted Person or any of its affiliates or any related parties thereto in violation of any confidentiality obligations owing under this Section 13.16, (d) to the extent that such Confidential Information is received by such Restricted Person from a third party that is not, to such Restricted Person's knowledge, subject to confidentiality obligations owing to any Credit Party or any of their respective subsidiaries or affiliates, (e) to the extent that such Confidential Information was already in the possession of the Restricted Persons prior to any duty or other undertaking of confidentiality or is independently developed by the Restricted Persons without the use of such Confidential Information, (f) to such Restricted Person's affiliates and to its and their respective officers, directors, partners, employees, legal counsel, independent auditors, and other experts or agents who need to know such Confidential Information in connection with providing the Loans or action as an Agent hereunder and who are informed of the confidential nature of such Confidential Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) (with each such Restricted Person, to the extent within its control, responsible for such person's compliance with this paragraph), (g) to potential or prospective Lenders, hedge providers, participants or assignees, in each case who agree (pursuant to customary syndication practice) to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16); provided that (i) the disclosure of any such Confidential Information to any Lenders, hedge providers or prospective Lenders, hedge providers or participants or prospective participants referred to above shall be made subject to the acknowledgment and acceptance by such Lender, hedge provider or prospective Lender or participant or prospective participant that such Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) in accordance with the standard syndication processes of such Restricted Person or customary market standards for dissemination of such type of information, which shall in any event require "click through" or other affirmative actions on the part of recipient to access such Confidential Information and (ii) [reserved], (h) for purposes of establishing a "due diligence" defense, or (i) to rating agencies in connection with obtaining ratings for the Borrower and the DIP Facility to the extent such rating agencies are subject to customary confidentiality obligations of professional practice or agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16). Notwithstanding the foregoing, (i) Confidential Information shall not include, with respect to any Person, information available to it or its Affiliates on a non-confidential basis from a source other than the Parent, its Subsidiaries or their respective Affiliates, (ii) the Administrative Agent shall not be responsible for compliance with this Section 13.16 by any other Restricted Person (other than its officers, directors or employees), (iii) in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Parent or any of its Subsidiaries, and (iv) each Agent and each Lender may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and the other Credit Documents.

13.17 Direct Website Communications. Each of the Parent and the Borrower may, at their option, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial, and other reports, certificates, and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded

communications being referred to herein collectively as "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Credit Parties, the Administrative Agent, any other Agent, the Escrow Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

The Agents agree that the receipt of the Communications by any Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to such Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(a) The Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "**Platform**"), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(b) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY THE CREDIT PARTIES (THE "**BORROWER MATERIALS**") OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Related Parties (collectively, the "**Agent Parties**" and each an "**Agent Party**") have any liability to the Borrower, any Lender, or any other Person for losses, claims, damages, liabilities, or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or such Agent's transmission of Borrower Materials through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties' (other than any trustee or advisor)) gross negligence, bad faith or willful misconduct as determined in the final non-appealable judgment of a court of competent jurisdiction.

(c) The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to the Parent, the Borrower, the Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrower has indicated contains only publicly available information with

respect to the Borrower may be posted on that portion of the Platform designated for such public-side Lenders. If the Borrower has not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Credit Parties and their securities. Notwithstanding the foregoing, the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information; provided, however, that, the following documents shall be deemed to be marked "PUBLIC," unless the Borrower notifies the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Credit Documents, (2) any notification of changes in the terms of the DIP Facility and (3) all financial statements and certificates delivered pursuant to Sections 9.1(b) and (d).

13.18 USA PATRIOT Act. Each Agent, the Escrow Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**"), it is required to obtain, verify, and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Agent, the Escrow Agent and such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with its normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with its normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate joint and several obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

13.20 Payments Set Aside. To the extent that any payment by or on behalf of the Parent or the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, receiver and manager or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

13.21 No Fiduciary Duty. Each Agent, the Escrow Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that

conflict with those of the Credit Parties, their stockholders and/or their affiliates. Each Credit Party agrees that nothing in the Credit Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Credit Party, its stockholders or its affiliates, on the other. The Credit Parties acknowledge and agree that (i) the transactions contemplated by the Credit Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Credit Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Credit Party, its stockholders or its Affiliates on other matters) or any other obligation to any Credit Party except the obligations expressly set forth in the Credit Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Credit Party, its management, stockholders or creditors. Each Credit Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, in connection with such transaction or the process leading thereto.

13.22 Canadian Anti-Money Laundering. The Borrower acknowledges that, pursuant to AML Legislation, the Agents, the Escrow Agent and the Lenders may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any of the Agents, the Escrow Agent or the Lenders, or any prospective assignee or participant of any of the Agents, the Escrow Agent or the Lenders, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If any of the Agents or the Escrow Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then such Agent or the Escrow Agent, as applicable:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and such Agent within the meaning of applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that none of the Agents nor the Escrow Agent has any obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, nor to confirm the completeness or accuracy of any information any of the Agents or the Escrow Agent obtains from the Borrower or any such authorized signatory in doing so.

13.23 [Reserved].

13.24 Acknowledgement and Consent to Bail-In of any Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Bank

that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of a Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by a Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Bank that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any Resolution Authority.

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IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

POINTWELL LIMITED,
as the Parent

By: _____

Name:
Title:

SKILLSOFT CORPORATION,
as the Borrower

By: _____

Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent, Escrow Agent and Collateral Agent

By: _____

Name:
Title:

_____,
as Lender

By: _____

Name:
Title:

Schedule "L"

Order (I) Scheduling Combined Hearing to Consider (A) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018

(See attached)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 13**

ORDER (I) SCHEDULING COMBINED HEARING TO CONSIDER (A) APPROVAL OF DISCLOSURE STATEMENT, (B) APPROVAL OF SOLICITATION PROCEDURES AND FORMS OF BALLOTS, AND (C) CONFIRMATION OF PREPACKAGED PLAN; (II) ESTABLISHING AN OBJECTION DEADLINE TO OBJECT TO DISCLOSURE STATEMENT AND PLAN; (III) APPROVING THE FORM AND MANNER OF NOTICE OF COMBINED HEARING, OBJECTION DEADLINE, AND NOTICE OF COMMENCEMENT; (IV) CONDITIONALLY WAIVING REQUIREMENT OF FILING STATEMENT OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES; (V) APPROVING NOTICE AND OBJECTION PROCEDURES FOR THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (VI) CONDITIONALLY WAIVING REQUIREMENT TO CONVENE THE SECTION 341 MEETING OF CREDITORS; AND (VII) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105(a), 341, 521(a), 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1007, 2002, 3017, AND 3018

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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(collectively, the "**Debtors**"), for entry of an order (i) scheduling a combined hearing (the "**Combined Hearing**") to consider (a) approval of the Disclosure Statement and (b) confirmation of the Prepackaged Plan; (ii) establishing an objection deadline to object to the adequacy of the Disclosure Statement or confirmation of the Prepackaged Plan; (iii) approving the Solicitation Procedures; (iv) approving the form and manner of the notice of the Combined Hearing, the Objection Deadline, and notice of commencement; (v) approving the notice and objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan; (vi) extending the deadline for the Debtors to file schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") through and including August 7, 2020 (the "**SOAL/SOFA Deadline**"), and conditionally waiving the requirement that the Debtors file the Schedules and Statements if confirmation of the Prepackaged Plan is obtained; (vii) conditionally waiving the requirement to convene the Section 341 Meeting; and (viii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and

it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The confirmation schedule set forth in the Motion is hereby approved, except as may be modified below.

3. A hearing to consider compliance with disclosure and solicitation requirements and confirmation of the Debtors' Prepackaged Plan (the "**Combined Hearing**") is hereby scheduled to be held before this Court on July 24, 2020 at 10:30 a.m. (prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the electronic case filing docket.

4. Objections to the Disclosure Statement and/or the Prepackaged Plan shall be: (i) in writing; (ii) filed with the Clerk of Court together with proof of service thereof; (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the estate or property of the Debtors, and (iv) state the legal and factual basis for such objection; and (v) conform to the applicable Bankruptcy Rules and the Local Rules, by no later than **4:00 p.m. (prevailing Eastern Time) on July 17, 2020** (the "**Objection Deadline**"). In addition to being filed with the Clerk of the Court, any such Objections should be served upon the following parties in accordance with the Local Rules:

i. Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, NH 03062 (Attn: Greg Porto, Chief People Officer (Greg.Porto@skillsoft.com);

ii. proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (Gary.Holtzer@weil.com), Robert J. Lemons, Esq. (Robert.Lemons@weil.com), and Katherine Theresa Lewis, Esq. (Katherine.Lewis@weil.com)) and Richard, Layton & Finger, P.A. One Rodney Square, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amanda R. Steele, Esq. (steele@rlf.com) and Chris De Lillo, Esq. (delillo@rlf.com));

iii. counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina Brown, Esq. (Christina.brown@gibsondunn.com));

iv. counsel to the Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));

v. counsel to Wilmington Savings Fund Society, FSB, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vi. counsel to Wilmington Savings Fund Society, FSB, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vii. counsel to Wilmington Savings Fund Society, FSB, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

viii. Counsel to the AR Facility Agent, Holland & Knight, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq. (Samuel.Pinkston@hklaw.com)); and

ix. the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), 844 N King St., Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.).

5. Any objection not timely filed and served in the manner set forth in this Order may, in the Court's discretion, not be considered and may be overruled.

6. Notice of the Combined Hearing as proposed in the Motion and the form of notice annexed hereto as **Exhibit 1** shall be deemed good and sufficient notice of the Combined Hearing and no further notice need be given; *provided, however,* that any provision of Bankruptcy Rule 3017(d) requiring the Debtors to distribute the Disclosure Statement and the Prepackaged Plan to parties not entitled to vote, whether because they are unimpaired or because they are deemed to reject the Prepackaged Plan, or any parties in interest other than as prescribed in this Order, shall be waived; *provided further, however,* the Disclosure Statement and Prepackaged Plan shall remain posted in PDF format to the following page at www.kccllc.net/skillsoft and shall be provided in either electronic or paper form to any parties in interest upon written request to the Debtors. The Debtors shall also serve a copy of the Combined Notice on all known creditors, interest holders, and interested parties.

7. Service of the Combined Notice as set forth in the Motion and herein is sufficient notice of the Petition Date, the Combined Hearing, the Objection Deadline, the procedures for objecting to the adequacy of the Disclosure Statement and to confirmation of the Prepackaged Plan, and the procedures for objecting to the Debtors' assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan.

8. To the extent that section 1125(b) of the Bankruptcy Code requires the Debtors' prepetition solicitation of acceptances for the Prepackaged Plan to be pursuant to an approved disclosure statement in order to continue on a postpetition basis, the Court conditionally approves the Disclosure Statement having adequate information as required by section 1125 of the Bankruptcy Code without prejudice to any party in interest objecting to the Disclosure Statement at the Combined Hearing.

9. The Debtors, in their discretion, are authorized pursuant to Bankruptcy Rule 2002(l) to give supplemental publication notice of the Combined Hearing, or shortened version thereof, by publication in a newspaper or newspapers designated by the Debtors in their sole discretion and on a date no less than twenty-eight (28) days prior to the Combined Hearing.

10. Any objection to the assumption or rejection of executory contracts and unexpired leases must (a) be in writing; (b) conform to the applicable Bankruptcy Rules and Local Rules, (c) set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof; (d) be filed with the Bankruptcy Court by the Objection Deadline, together with proof of service, and (e) served upon the Notice Parties.

11. The objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan are approved, as set forth in the Combined Notice.

12. The time within which the Debtors shall file the Schedules and Statements is extended through and including August 7, 2020 without prejudice to the Debtors' right to seek further extensions of the time within which to file the Schedules and Statements or to seek additional relief from this Court regarding the filing of, or waiver of the requirement to file, the Schedules and Statements.

13. The requirement that the Debtors file the Schedules and Statements is permanently waived effective upon the date of confirmation of the Prepackaged Plan, provided confirmation occurs on or before the SOAL/SOFA Deadline.

14. The U.S. Trustee shall not be required to schedule a meeting of creditors and equity holders pursuant to Bankruptcy Code section 341(a) and (b), unless the Prepackaged Plan is not confirmed in these chapter 11 cases on or before the SOAL/SOFA Deadline.

15. Notwithstanding anything to the contrary herein or in the confirmation schedule set forth in the Motion, any holder of Claims in Class 3 and/or Class 4 that is a Consenting Creditor may revoke its vote at any time following the termination of the Restructuring Support Agreement with respect to such Consenting Creditor. Upon such revocation, such Consenting Creditor shall be entitled to submit a replacement vote so as to be received by KCC no later than 5:00 p.m. (prevailing Eastern Time) on the date that is seven (7) days following such revocation.

16. The Debtors are authorized to take all steps necessary or appropriate to carry out the relief granted pursuant to this Order in accordance with the Motion.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Combined Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

NOTICE OF (I) COMMENCEMENT OF CHAPTER 11 CASES, (II) COMBINED HEARING ON DISCLOSURE STATEMENT, CONFIRMATION OF JOINT PREPACKAGED CHAPTER 11 PLAN, AND RELATED MATTERS, AND (III) OBJECTION DEADLINES, AND SUMMARY OF DEBTORS' JOINT PREPACKAGED CHAPTER 11 PLAN

NOTICE IS HEREBY GIVEN as follows:

1. On June 14, 2020 (the "**Petition Date**") Skillsoft Corp. and its affiliated debtors, as debtors and debtors in possession (collectively, the "**Debtors**"), each commenced a case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

2. On the Petition Date, the Debtors filed a "prepackaged" plan of reorganization (the "**Prepackaged Plan**") and a proposed disclosure statement (the "**Disclosure Statement**") pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Copies of the Prepackaged Plan and the Disclosure Statement may be obtained free of charge by visiting the website maintained by the Debtors' voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), at www.kccllc.net/skillsoft. Copies of the Prepackaged Plan and Disclosure Statement may also be obtained by calling the Voting Agent at 877-709-4752 (domestic hotline) 424-236-7232 (international hotline) or emailing the Voting Agent at skillsoftinfo@kccllc.com.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Information Regarding Prepackaged Plan

3. On June 14, 2020, the Debtors commenced solicitation of votes to accept the Prepackaged Plan from the holders of Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) of record as of June 12, 2020. Only holders of Claims in Class 3 and Class 4 are entitled to vote to accept or reject the Prepackaged Plan. All other classes of claims were either deemed to accept or reject the Prepackaged Plan and, therefore, are not entitled to vote. **The deadline for the submission of votes to accept or reject the Prepackaged Plan is June 26, 2020 at 5:00 p.m. (Prevailing Eastern Time).**

4. The Debtors are proposing a restructuring that, pursuant to the Prepackaged Plan, will provide substantial benefits to the Debtors and all of their stakeholders. Upon its full implementation, the Prepackaged Plan will reduce the Debtors' balance sheet liabilities from approximately $2.1 billion in prepetition funded debt down to approximately $585 million in funded debt. In addition to significantly de-levering the Debtors' balance sheet, the Debtors will emerge from chapter 11 with access to a new working capital facility that will provide sufficient liquidity to allow the Debtors to continue funding business operations. The restructuring will allow the Debtors' management team to focus on operational performance and value creation, execute on growth initiatives, and continue to serve as an international leader and innovator in the corporate learning market.

5. A combined hearing to consider the adequacy of the Disclosure Statement and any objections thereto and to consider confirmation of the Prepackaged Plan and any objections thereto will be held before the Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801, **on July 24, 2020 at 10:30 a.m. (Prevailing Eastern Time)** (the "**Combined Hearing**"). The Combined Hearing may be adjourned from time to time without further notice other than by filing a notice of the Bankruptcy Court's docket indicating such adjournment and/or announcement of the adjournment date or dates at the Combined Hearing. The adjourned dates will be available on the electronic case filing docket and the Voting Agent's website www.kccllc.net/skillsoft.

6. The deadline for filing objections to the adequacy of the Disclosure Statement or confirmation of the Plan is **July 17, 2020, at 4:00 p.m. (Prevailing Eastern Time)** (the "**Objection Deadline**"). Any objections to the Disclosure Statement and/or the Prepackaged Plan must be: (i) in writing, (ii) filed with the Clerk of the Court together with proof of service thereof, (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the Debtors' estates or property of the Debtors; and (iv) state the legal and factual basis for such objection, and (v) conform to the applicable Bankruptcy Rules and the Local Rules.

7. In addition to being filed with the Clerk of the Court, any such objections should be served upon the following parties in accordance with the Local Rules:

Debtors
Skillsoft Corporation
300 Innovative Way, Suite 201
Nashua, New Hampshire, 03062
Telephone: (866) 757-73177
Attn: Greg Porto
Email: greg.porto@skillsoft.com

Office of the U.S. Trustee
Office of the U.S. Trustee for
the District of Delaware
844 King Street
Suite 2207, Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy, Esq.
Email: jane.m.leamy@usdoj.gov

Proposed Counsel to the Debtors
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Gary T. Holtzer, Esq.
Robert J. Lemons, Esq.
Katherine Theresa Lewis, Esq.
Email: gary.holtzer@weil.com
robert.lemons@weil.com
katherine.lewis@weil.com

Proposed Co-Counsel to the Debtors
Richards, Layton, & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq.
Amanda R. Steele, Esq.
Christopher M. De Lillo, Esq.
Email: collins@rlf.com
steele@rlf.com
delillo@rlf.com

Counsel to the First Lien Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

Counsel to the Ad Hoc First Lien Group
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attn: Scott J. Greenberg, Esq.
Steven A. Domanowski, Esq.
Christina M. Brown, Esq.
Email: sgreenberg@gibsondunn.com
sdomanowski@gibsondunn.com
christina.brown@gibsondunn.com

Counsel to the Second Lien Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

Counsel to the Ad Hoc Crossholder Group
Milbank LLP
55 Hudson Yards
New York, New York, 10001
Attn: Evan R. Fleck, Esq.
Benjamin M. Schak, Esq.
Sarah Levin, Esq.
Email: efleck@milbank.com
bschak@milbank.com

Counsel to the DIP Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

slevin@milbank.com

UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AT THE COMBINED HEARING.

Notice of Assumption of Executory Contracts and Unexpired Leases of Debtors and Related Procedures

8. Please take notice that, in accordance with Section 8.1 of the Plan and sections 365 and 1123 of the Bankruptcy Code, all Executory Contracts and Unexpired Leases shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code (such contracts and leases, the "**Assumed Contracts**"), unless such Executory Contract and Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List.

9. Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default (a "**Cure Amount**") shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtors or Reorganized Debtors, as applicable, upon assumption thereof. If you believe that any Cure Amounts are due by the Debtors in connection with the assumption of your contract or unexpired lease, you should assert such Cure Amounts against the Debtors in the ordinary course of business.

10. To the extent that you object to the assumption of an Assumed Contract on any basis, including the Debtors' satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code to provide adequate assurance of future performance under an Assumed Contract, you must (a) file with the Bankruptcy Court a written objection (the "**Objection**") no later than the Objection Deadline that complies with the Bankruptcy Rules and the Local Rules and sets forth (i) the basis for such objection and specific grounds therefor, and (ii) the name and contact information of the person authorized to resolve such objection, and (b) serve the same on the parties listed above.

11. If no Objection is timely filed with respect to an Assumed Contract, (a) you shall be deemed to have assented to (i) the assumption of such Assumed Contract, (ii) the effective date of such assumption, and (iii) the satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code of the Debtors to provide adequate assurance of future performance under such Assumed Contract, and (b) you shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or the adequate assurance of future performance contemplated herein.

12. The Debtors request that, before filing an Objection, you contact the Debtors prior to the Objection Deadline to attempt to resolve such dispute consensually. The

Debtors' contact for such matters is Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), Robert J. Lemons, Esq. (robert.lemons@weil.com), and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and Richards, Layton & Finger, P.A., 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amada R. Steele, Esq. (steele@rlf.com) and Christopher M. De Lillo, Esq. (delillo@rlf.com)). If such dispute cannot be resolved consensually prior to the Objection Deadline (as the same may be extended by agreement of the Debtors), you must file and serve an Objection as set forth herein to preserve your right to object.

13. If a timely Objection is filed and served in accordance with this notice pertaining to assumption of an Assumed Contract, and cannot be otherwise resolved by the parties pursuant to Section 8.2 of the Prepackaged Plan, the Bankruptcy Court may hear such Objection at a date set by the Bankruptcy Court.

Summary of the Prepackaged Plan

14. Solicitation of votes on the Prepackaged Plan commenced prior to the Petition Date. The following chart summarizes the treatment provided by the Prepackaged Plan to each class of Claims and Interests:

Class	Claim or Equity Interest	Treatment	Impaired or Unimpaired	Entitlement to Vote on the Plan	Approx. Percentage Recovery[2]
Class 1	Other Priority Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) such other treatment sufficient to render such holder's Allowed Other Priority Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 2	Other Secured Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%

[2] The values set forth under Approximate Percentage Recovery are based on the midpoint of the range of reorganized equity value of the Debtors as described in the Valuation Analysis set forth in this Disclosure Statement.

		treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) reinstatement or such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.			
Class 3	First Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed First Lien Debt Claims, the holders of Allowed First Lien Debt Claims (or the permitted assigns or designees of such holders) shall receive their Pro Rata share of: (i) New Second Out Term Loans; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans.	Impaired	Yes	Estimated Percentage Recovery: 71%
Class 4	Second Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed Second Lien Debt Claims, the holders of Allowed Second Lien Debt Claims shall receive their Pro Rata share of: (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants.	Impaired	Yes	Estimated Percentage Recovery: 3%[3]
Class 5	General Unsecured Claims	The legal, equitable, and contractual rights of the holders of Allowed General Unsecured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on and after the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall continue to pay or dispute each General Unsecured Claim in the ordinary course of business as if the Chapter 11 Cases had never been commenced.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 6	Subordinated Claims	On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 7	Intercompany Claims	On the Effective Date, all Intercompany Claims shall be reinstated, cancelled, reduced, transferred, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

[3] Estimated percentage recovery excludes value attributable to warrants.

Class 8	Existing Parent Equity Interests	On the Effective Date, the entire share capital of Parent shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps. Holders of Existing Parent Equity Interests shall receive no distribution under this Plan.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 9	Other Equity Interests	On the Effective Date, Other Equity Interests shall be cancelled, released, and extinguished and shall be of no further force and effect.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 10	Intercompany Interests	On the Effective Date, all Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

Non-Voting Status of Holders of Certain Claims and Interests

15. As set forth above, certain holders of Claims and Interests are **not** entitled to vote on the Prepackaged Plan. As a result, such parties did not receive any ballots and other related solicitation materials to vote on the Prepackaged Plan. The holders of Claims and Interests in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) are unimpaired under the Prepackaged Plan, and therefore, are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) of the Bankruptcy Code. The holders of Claims and Interests in Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests) are not entitled to a recovery under the Prepackaged Plan, and therefore, are deemed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. The holders of Claims and Interests in Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests) are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) or presumed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. Finally, parties to certain of the Debtors' executory contracts and unexpired leases may not have Claims pending the disposition of their contracts or leases by assumption or rejection under the Prepackaged Plan. Such parties nevertheless are being provided with this Combined Hearing Notice, and will be separately notified of the projected disposition of their contracts and/or lease. Upon request, the Voting Agent will provide you, free of charge, with copies of the Prepackaged Plan, the Disclosure Statement, and the Combined Hearing Notice.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS IN THE PREPACKAGED PLAN

PLEASE BE ADVISED THAT THE PREPACKAGED PLAN CONTAINS CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, INCLUDING:

Section 10.5 ***Injunction Against Interference with Plan***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees,

agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

Section 10.6 *Plan Injunction*

(a) Except as otherwise provided in the Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan and the Plan Documents.

(b) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth in Section 10.6 of the Plan.

Section 10.7 *Releases*

(a) **Releases by Debtors. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities**

whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

Section 10.8 *Exculpation*

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, this Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Section 10.9 *Injunction Related to Releases and Exculpation.*

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to the Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in the Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons

in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such.

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

Section 341(a) Meeting

16. A meeting of creditors pursuant to section 341(a) of the Bankruptcy Code (the "**Section 341(a) Meeting**") has been deferred. **The Section 341(a) Meeting will not be convened if the Plan is confirmed by August 7, 2020.** If the Section 341(a) Meeting will be convened, the Debtors will file, serve on the parties on whom it served this notice and any other parties entitled to notice pursuant to the Bankruptcy Rules, and post on the website at www.kccllc.net/skillsoft not less than twenty-one (21) days before the date scheduled for such meeting, a notice of, among other things, the date, time, and place of the Section 341(a) Meeting. The meeting may be adjourned or continued from time to time by notice at the meeting, without further notice to creditors.

Dated: Wilmington, Delaware
_____, 2020

BY ORDER OF THE COURT

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (pro hac vice admission pending)
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Schedule "M"

Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief

(See attached)

Docket #0083 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 34**

ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, for entry of an order (i) authorizing, but not directing, the Debtors to (a) enter into the Exclusivity Letter with the Interested Party, and (b) perform their obligations thereunder, including paying the Upfront Payment Amount on the terms and conditions in the Exclusivity Letter, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to those terms in the Motion.

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§§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized, but not directed, to enter into the Exclusivity Letter with the Interested Party and to perform their obligations thereunder, including paying the Upfront Payment Amount subject to the terms and conditions of the Exclusivity Letter.

3. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

4. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

5. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "N"

Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter

(See attached)

Docket #0084 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 36**

ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL AND REDACT CERTAIN IDENTITY INFORMATION IN THE MOTION TO ENTER INTO EXCLUSIVITY LETTER

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Exclusivity Letter Motion containing the Commercial Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file the Exclusivity Letter Motion under seal and to redact the Commercial Information in the publicly-filed versions of the Exclusivity Letter Motion. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, absent further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide the un-redacted version of the Exclusivity Letter Motion to the Court and on a confidential, professional eyes' only basis to: (i) the U.S. Trustee; (ii) counsel to any statutory committee appointed in these

chapter 11 cases; (iii) counsel to the Ad Hoc First Lien Group; and (iv) counsel to the Ad Hoc Crossholder Group.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Exclusivity Letter Motion, other than the Court or the U.S. Trustee, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Exclusivity Letter Motion, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Exclusivity Letter Motion or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "O"

Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal

(See attached)

Docket #0087 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– 11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 32**

ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018, AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE THE PROPOSED DEBTOR-IN-POSSESSION FINANCING FEE LETTERS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Fee Letters, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

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and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1, to file those certain portions of the Fee Letters containing Commercial Information under seal and to redact such Commercial Information in the Fee Letters. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Fee Letters to the Court and shall provide an un-redacted version of the Fee Letters to the Receiving Parties on a confidential, "professionals' eyes only" basis.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Fee Letters, other than the Court or the Office of the United States Trustee for the District of Delaware, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Fee Letters, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Fee Letters or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "P"

Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 8**

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact (a) certain

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

portions of their Creditor Matrix containing the Commercial Information and/or the Personal Information and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents. The Commercial Information and the Personal Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other

than as provided in Paragraph 3 of this Interim Order, without further order of this Court; *provided,* that any customer name and address that is otherwise made publicly available in connection with a pleading in this Court or on the Company's website shall not be deemed Commercial Information.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Sealed Documents on a confidential basis to the Court, the U.S. Trustee, and counsel to any statutory committee appointed in these chapter 11 cases.

4. The Debtors and any party authorized to receive copies of the un-redacted Sealed Documents and the Commercial Information and the Personal Information contained therein pursuant to this Interim Order shall be authorized and directed, subject to Local Rule 9018-1(d) and (e), to (a) redact specific references to the Commercial Information and the Personal Information from pleadings and other documents filed on the public docket maintained in these chapter 11 cases, and (b) not use or refer to any Commercial Information and Personal Information in any hearing without first consulting with the Debtors and the Court as to how to make use of such Commercial Information and Personal Information at the hearing while maintaining its confidentiality; *provided, however,* that nothing in this Interim Order shall authorize the Debtors or any other party to seal or redact information in any retention application filed in these chapter 11 cases, absent further order of the Court.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personal Information is sealed or redacted pursuant to this Interim Order or any final order on the Motion. Service of all documents and notices upon individuals whose Personal Information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service. The Debtors shall

provide the Personal Information to any party in interest that files a motion that indicates the reason such information is needed and that, after notice and a hearing, is granted by the Court.

6. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing and filed with the Court by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)); and (ii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (christina.brown@gibsondunn.com)), (iii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iv) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)).

7. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Interim Order.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 17th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Schedule "Q"

Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network

(See attached)

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS

INTRODUCTION

A. The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction ("Parallel Proceedings") by enhancing coordination and cooperation amongst courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.

B. In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.

C. In particular, these Guidelines aim to promote:

(i) the efficient and timely coordination and administration of Parallel Proceedings;

(ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders' interests are respected;

(iii) the identification, preservation, and maximisation of the value of the debtor's assets, including the debtor's business;

(iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors, and the number of jurisdictions involved in Parallel Proceedings;

(v) the sharing of information in order to reduce costs; and

(vi) the avoidance or minimisation of litigation, costs, and inconvenience to the parties[1] in Parallel Proceedings.

D. These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit[2].

E. These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.

F. Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to facilitate such implementation by a protocol or order derived from these Guidelines, and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

[1] The term "parties" when used in these Guidelines shall be interpreted broadly.

[2] Possible modalities for the implementation of these Guidelines include practice directions and commercial guides.

ADOPTION & INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings; and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, "administrator" includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in-possession in a reorganisation or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order[3], following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

(i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;

(ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;

(iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction; or

(iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the court or before the other court or a waiver by any of the parties of any of their substantive rights and claims.

Guideline 6: In the interpretation of these Guidelines or any protocol or order under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

[3] In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply.

COMMUNICATION BETWEEN COURTS

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

(i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(ii) Directing counsel to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.

(iii) Participating in two-way communications with the other court, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, unless otherwise directed by any court involved in the communications whether on an *ex parte* basis or otherwise, or permitted by a protocol, the following shall apply:

(i) In the normal case, parties may be present.

(ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications and the communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.

(iii) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and subject to such directions as to confidentiality as any court may consider appropriate.

(iv) The time and place for communications between the courts shall be as directed by the courts. Personnel other than judges in each court may communicate with each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable in the court.

APPEARANCE IN COURT

Guideline 10: A court may authorise a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorise a party to a foreign proceeding, or an appropriate person, to appear and be heard by it without thereby becoming subject to its jurisdiction.

CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognise and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol or order made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

(i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.

(ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.

(iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.

(iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.

(v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.

(vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.

(vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.

EXHIBIT "C"

Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief

(*See attached*)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*,	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

DECLARATION OF JOHN FREDERICK IN
SUPPORT OF DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY RELIEF

I, John Frederick, pursuant to section 1746 of title 28 of the United States Code, hereby declare under penalty of perjury under the laws of the United States that the following is true to the best of my knowledge, information, and belief:

1. I am the Chief Administrative Officer ("**CAO**") and a member of the board of directors (the "**Board**") of Debtor Skillsoft Corporation, a Delaware corporation ("**Skillsoft**" and, together with Debtor Pointwell Limited and the direct and indirect subsidiaries of Pointwell Limited, the "**Company**"). Subsequent to assuming my role as CAO in November 2018, I was appointed to the position of Chief Executive Officer of Debtor SumTotal Systems, LLC, a

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Delaware limited liability company, a position in which I continue to serve in addition to my role as CAO of Skillsoft.

2. Prior to joining the Company, I served as the Chief Administrative Officer and then as the Chief Operating Officer of SnagAJob.com, the largest platform designed to connect potential hourly employees with employment opportunities across the U.S. and Canada, from January 2018 through October 2018. I have over 20 years of diversified experience leading operational and administrative functions within private and public companies with revenues ranging from $60 million to more than $2 billion, with more than 30 years of total experience. I have held senior finance and administrative roles in consumer product, entertainment, technology, and learning and talent management companies as well as an early career foundation in public accounting at a predecessor of a "Big Four" public accounting firm.

3. On the date hereof (the "**Petition Date**"), Skillsoft and certain of its affiliates (collectively, the "**Debtors**") each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). I understand that the Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. I further understand that no trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

4. I am knowledgeable and familiar with the Debtors' and the Company's day-to-day operations, businesses and financial affairs, books and records, and the circumstances leading to the commencement of these chapter 11 cases.

5. Except as otherwise indicated herein, the facts set forth in this declaration (this "**Declaration**") are based upon my personal knowledge, my review of relevant documents,

information provided to me by employees of or advisors to the Company, or my opinion based upon my experience, knowledge, and information concerning the Company's operations. If called upon to testify, I would testify competently to the facts set forth in this Declaration on that basis.

6. The Debtors have requested a variety of relief in their "first day" motions and applications (each, a "**First Day Pleading**" and collectively, the "**First Day Pleadings**") filed concurrently herewith to minimize the adverse effects of the commencement of these chapter 11 cases. I am familiar with the contents of each First Day Pleading, and I believe that the relief sought therein is necessary to facilitate the Debtors' smooth transition into chapter 11. I further believe that the relief requested in the First Day Pleadings will preserve and maximize the value of the Debtors' estates.

I.
Preliminary Statement[2]

7. The Company[3] is a learning and talent management enterprise software company that develops and provides learning management system software and learning content assets, serving thousands of organizations across the globe, including approximately sixty-five percent (65%) of the Fortune 500.[4] The Company operates in a large and growing market that is believed to be approximately $9.5 billion in the U.S. alone. To address this market, the Company has developed and actively markets three award-winning systems as well as learning content that support learning, performance, and success for its corporate customers and their users: Skillsoft,

[2] Capitalized terms used but not otherwise defined in this section shall have the meaning ascribed to such terms elsewhere in this Declaration.

[3] The corporate organizational structure of the Company as of the Petition Date is depicted on the chart attached hereto as **Exhibit A**.

[4] The Fortune 500 is an independent directory, produced by Fortune Media IP Limited, of companies that (1) are incorporated in the U.S., (2) operate in the U.S., and (3) file financial statements with government agencies, ranked by total revenues for their respective fiscal years. For more information, please visit fortune.com/fortune500 (last visited June 12, 2020).

a business that designs and updates an extensive database of learning content; Percipio, an intelligent learning experience platform; and SumTotal, a learning and talent development suite.

8. Today, Skillsoft has commenced these chapter 11 cases to implement a prenegotiated, comprehensive consensual restructuring (the "**Restructuring**") through a prepackaged plan of reorganization that will substantially delever the Company by reducing its balance sheet liabilities from approximately $2.1 billion in funded debt to approximately $585 million in funded debt upon emergence.

9. As set forth in greater detail in the *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors* (the "**Prepackaged Plan**"), which was filed contemporaneously herewith, the Restructuring provides that:

i. each holder of a First Lien Debt Claim will receive its *pro rata* share of (i) $410 million of Second Out Term Loans and (ii) 96% of the Newco Equity (subject to dilution by the Incentive Plans);

ii. each holder of a Second Lien Debt Claim will receive its *pro rata* share of (i) 4% of the Newco Equity; (ii) Tranche A Warrants; and (iii) Tranche B Warrants (in each case subject to dilution by the Incentive Plans);

iii. the Debtors' general unsecured claims will receive payment of their claims in full; and

iv. existing equity interests in the Parent will be cancelled on the Effective Date.

10. Additionally, certain of the Company's First Lien Lenders have also agreed, subject to the Court's approval, to provide a $60 million debtor-in-possession credit facility (the "**DIP Financing**") to provide incremental liquidity to help fund the costs of the Restructuring. Certain First Lien Lenders have also agreed to provide the Company with exit financing, which consists of (i) $60 million to be used to fund the outstanding DIP Financing obligations and (ii) $50 million of incremental liquidity to the Company on the Effective Date.

11. The effect of the Restructuring on the Debtors' capital structure is summarized as follows:

	Status Quo[1]	Pro Forma[1]	
	8/14/20P	*Adj.*	8/14/20P
AR Credit Facility[2]	$63	-	$63
DIP / New First Out Term Loan Facility	-	*$110*	110
Existing 1L Revolver[3]	80	*(80)*	-
Existing 1L Term Loan	1,290	*(1,290)*	-
New Second Out Term Loan Facility	-	*410*	410
Existing 2L Term Loan	670	*(670)*	-
Total Debt	**$2,103**	***($1,519)***	**$583**
Less: Cash			(47)
Net Debt	**$2,103**	***($1,519)***	**$536**
Existing Preferred Equity	2,075	*(2,075)*	-
Net Debt + Preferred Equity	**$4,178**	***($3,594)***	**$536**
PF Common Equity Splits:			
Existing Equity	100.0%	*(100.0%)*	-
Existing 1L Lenders	-	*96.0%*	96.0%
Existing 2L Lenders	-	*4.0%*	4.0%
Total	**100.0%**	**-**	**100.0%**
Liquidity:			
AR Credit Facility			-
DIP / New First Out Term Loan Facility			-
Existing 1L Revolver			-
Available Cash			47
Total Liquidity	**-**	**-**	**$47**
Memo:			
Est. Run-Rate Annual Cash Interest	143	*(97)*	47
Mandatory Amortization[4]	14	*(10)*	4
Est. Total Debt Service	**$157**	***($106)***	**$51**
FY21P Cash EBITDA	111	-	111
Key Credit Metrics			
FCCR[5]	0.6x	*1.1x*	1.8x
Total Leverage	18.9x	*(13.6x)*	5.2x

(1) *8/14/20P balances based on preliminary DIP Budget as of 6/13/20*
(2) *Pro forma 8/14/20P amount reflects expected balance upon finalization of terms*
(3) *Balance excludes outstanding letters of credit with an aggregate face amount of ~$0.5mm*
(4) *Amortization payments under the pro forma capital structure begin on 4/30/21*
(5) *FCCR calculated as (Cash EBITDA – Capex – Estimated Post-Reorg Cash Taxes) / (Cash Interest + Mandatory Amortization)*

12. The Restructuring is supported by the overwhelming majority of the Debtors' capital structure. Pursuant to that *Restructuring Support Agreement* dated as of June 12,

2020, annexed hereto as Exhibit B (as amended from time to time and including all exhibits thereto, the "**Restructuring Support Agreement**"), holders representing approximately 81% in value of the Company's First Lien Debt and approximately 84% in value of its Second Lien Debt have agreed, subject to the terms and conditions of the Restructuring Support Agreement, to vote in favor of the Prepackaged Plan (collectively, and with any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"). All other claims of third parties against the Debtors are unimpaired under the Prepackaged Plan, and third party creditors are accordingly presumed to accept the Prepackaged Plan. Furthermore, the Debtors and the Consenting Creditors entered into a cooperation agreement, effective as of June 12, 2020, and a mutual release agreement, to become effective on the Effective Date (as defined in the Prepackaged Plan) (collectively, the "**Cooperation Agreement**") with the Sponsor (as defined herein) and each of the four (4) Luxembourg parent entities of Debtor Pointwell Limited (collectively, the "**Evergreen Entities**") pursuant to which the Sponsor and the Evergreen Entities agreed to support the Prepackaged Plan.

13. The Company, with the support of the Consenting Creditors, may enter into an exclusivity agreement with a potential third party purchaser of substantially all of the Company's business and is continuing negotiations with this party regarding a potential Alternative Transaction (as defined in the Restructuring Support Agreement). In light of the Company's deteriorating liquidity position, immediate need to access the DIP Facility, and the need for the certainty of a fully-agreed reorganization path if the Company does not consummate a transaction with the potential third party purchaser, the Company has commenced these chapter 11 cases (with the support of the Consenting Creditors) and is seeking to implement the Restructuring contemplated by the Restructuring Support Agreement; however, if the ongoing

negotiations with the third party are ultimately successful, the Company, may seek to amend the Plan and Disclosure Statement (to the extent it obtains the support of the Consenting Creditors) to reflect the Alternative Transaction prior to the Confirmation Hearing.

14. To reap the full benefits of the Restructuring, the Debtors must exit these chapter 11 cases quickly. The Debtors have agreed under the Restructuring Support Agreement to use commercially reasonable efforts to meet certain milestones for the Restructuring process, including (i) confirmation of the Prepackaged Plan by no later than sixty (60) calendar days after the Petition Date and (ii) the Prepackaged Plan becoming effective no later than eighty (80) days after the Petition Date. To the extent the Debtors and their creditors believe that a sale of the Company's business would maximize value and increase recoveries to the Debtors' stakeholders, these milestones may be subject to negotiation and adjustment. At this time, I believe that the milestones strike the proper balance between holding the Debtors to a timeline to ensure that they emerge from bankruptcy as quickly as possible while providing enough flexibility to allow the Debtors to pursue the best possible restructuring transaction.

15. With the support of the Consenting Creditors, the Debtors began soliciting votes on the Prepackaged Plan before filing their chapter 11 petitions for relief. On June 14, 2020, the Debtors served the *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Disclosure Statement**") pursuant to sections 1125 and 1126(b) of the Bankruptcy Code on holders of impaired claims entitled to vote and have requested the voting creditors to submit their ballots by June 26, 2020 (Prevailing Eastern Time). Further, the Debtors have requested that the Court schedule a combined hearing to approve the Disclosure Statement and confirm the Prepackaged Plan on July 23, 2020 (Prevailing Eastern Time) or as soon thereafter as the Court's schedule permits. The Debtors expect that the votes

tabulated and received from the voting creditors will, consistent with the Restructuring Support Agreement, overwhelmingly support confirmation of the Prepackaged Plan.

II.
The Company's Business

16. The Company is a global enterprise software and technology provider of (i) learning content (including courses, videos, books, and other learning assets) that supports learning, performance, and success; (ii) an intelligent learning experience platform designed to engage modern learners via a consumer-led experience to accelerate learning; and (iii) a talent development technology platform that supports an organization's talent acquisition, learning management, and talent management.

17. The Company was founded in 1989 as a private Irish Company. In 1995, the Company, as CBT Group PLC, began trading American depository shares ("**ADSs**") on the NASDAQ stock exchange. CBT Group PLC was an information technology and business skills courseware company. CBT Group PLC changed its legal name to SmartForce in late 1998. Skillsoft Corporation was founded as a Delaware corporation in 1998 by Charles Moran. Skillsoft Corporation went public in 2000 and completed a secondary public offering in July 2001. In 2002, Skillsoft Corporation merged with SmartForce in a transaction in which common stock in Skillsoft Corporation was exchanged for SmartForce ADSs, with Skillsoft Corporation being the accounting acquirer and SmartForce being the legal acquirer as determined by the U.S. Securities and Exchange Commission. SmartForce changed its name to Skillsoft PLC following this merger.

18. Over the next five years, the Company continued to expand and acquired companies including web-based reference-ware materials provider Books 24x7 and live virtual instructor-led training, blended learning, content authoring, and learning content and development company NETg from Thompson Learning.

19. In 2010, the Company was acquired by Berkshire Partners, Advent International, and Bain Capital Partners LLC. The Company then acquired e-learning content, virtual lab, instructor-led training print material, and custom development services company, Element K, from NIIT in 2011, and e-learning and organizational development company, MindLeaders, from ThirdForce Group in 2012.

20. In August 2014, the Company was indirectly acquired by entities controlled by Charterhouse Evergreen LP, which is managed by its general partner Charterhouse General Partners (IX) Limited (the "**Sponsor**"). In September 2014 and May 2015, as part of its ongoing growth strategy, Skillsoft acquired SumTotal Systems ("**SumTotal**") and Vodeclic SAS ("**Vodeclic**") to expand the scale and scope, respectively, of the Company's platform. The acquisition of SumTotal was a vertical integration opportunity, providing the Company with an advanced distribution platform and many cross-selling opportunities. The Company's long-term goal in acquiring SumTotal was to provide a holistic content solution for customers across industries, creating and delivering the world's deepest portfolio of learning content in an enterprise human capital management delivery platform. The acquisition of France-based Vodeclic allowed the Company to extend its European footprint. The Company combined Vodeclics's high quality video-based digital skills content with the Company's existing content portfolio, tools, and capacities, accelerating the Company's ability to produce and distribute digital skills content that educates learners of all types.

21. Today, the Company is a global leader and innovator in the corporate learning market, providing a single solution to meet all of the learning requirements of organizations across the globe.

22. The Company's North American headquarters are located in Nashua, New Hampshire, and the Company operates in 11 countries. It has a total of approximately 2,200 employees.

III.
Corporate and Capital Structure

23. An abridged corporate organizational chart is set forth as **Exhibit A** attached hereto. As depicted on **Exhibit A**, the Company is indirectly controlled by the Sponsor through certain non-Debtor affiliates.

24. As of the Petition Date, the Company's prepetition capital structure consists of approximately $2.1 billion in total funded debt, made up of: (i) a first lien term loan facility in an original principal amount of $900 million and an incremental facility in an original principal amount of $465 million incurred on September 30, 2014, and under which approximately $1.29 billion of principal amount is outstanding; (ii) a first lien revolving credit facility in an aggregate principal amount not to exceed $80 million, under which approximately $79.5 million of revolving loans are outstanding and letters of credit with an aggregate face amount of approximately $500,000 were issued; (iii) a second lien term loan facility in an original principal amount of $485 million and an in incremental facility in an original payment amount of $185 million incurred on September 30, 2014, and under which approximately $670 million of principal amount is outstanding (the foregoing (i)-(iii), collectively, the "**Debtor Obligations**"); and (iv) an up to $90 million accounts receivables-backed facility borrowed by non-Debtor Skillsoft Receivables Financing LLC (the "**AR Borrower**"), under which approximately $68 million is outstanding (the

"**Non-Debtor Obligations**" and, (i)-(iv), collectively, the "**Funded Debt Obligations**"). The Funded Debt Obligations are summarized in more detail below:

A. Debtor Obligations

1. First Lien Debt

25. On April 28, 2014, certain of the Debtors, among others, entered into that certain *First Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**First Lien Credit Agreement**") by and among (i) Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054 ("**Holdings**"); (ii) Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790 (the "**Lux Borrower**"), Skillsoft Canada Ltd., a New Brunswick corporation (the "**Canadian Borrower**" or "**Skillsoft Canada**"), and Skillsoft (the "**U.S. Borrower**" and, collectively with the Lux Borrower and the Canadian Borrower, the "**First Lien Borrowers**"), as borrowers; (iii) the various lenders from time to time party thereto (collectively, the "**First Lien Lenders**"); and (iv) Wilmington Savings Fund Society, FSB ("**WSFS**") (as successor agent to Barclays Bank PLC ("**Barclays**")), as administrative and collateral agent (in such capacity, the "**First Lien Agent**"), pursuant to which the First Lien Lenders agreed to provide the First Lien Borrowers with the First Lien Term Loan Facility and the First Lien Revolving Credit Facility (each, as defined below). As of the Petition Date, an aggregate principal amount of approximately $1.3 billion was outstanding under the First Lien Credit Agreement (the "**First Lien Debt**"). The First Lien Borrowers'

obligations under the First Lien Credit Agreement are guaranteed by certain subsidiaries of the Company (collectively, the "**Subsidiary Guarantors**"), the First Lien Borrowers, and Holdings. The First Lien Debt is secured by a first-priority security interest in substantially all of the assets, subject to certain limitations and exclusions, of Holdings, the First Lien Borrowers, and the Subsidiary Guarantors. A description of each of the First Lien Term Loan Facility and the First Lien Revolving Facility are set forth below.

i. *The First Lien Term Loan Facility*

26. Pursuant to the First Lien Credit Agreement, certain of the First Lien Lenders agreed to lend (i) on the original closing date term loans to the Lux Borrower and the U.S. Borrower in an original aggregate principal amount of $900 million and (ii) on September 30, 2014, incremental term loans to the Lux Borrower and U.S. Borrower in an aggregate principal amount of $465 million (collectively, the "**First Lien Term Loan Facility**" and the loans thereunder, the "**First Lien Term Loans**"). The First Lien Term Loan Facility matures in April 2021. As of the Petition Date, an aggregate balance of approximately $1.29 billion in principal amount of First Lien Term Loans remains outstanding.

ii. *First Lien Revolving Credit Facility*

27. Pursuant to the First Lien Credit Agreement, certain of the First Lien Lenders agreed to provide the First Lien Borrowers with revolving commitments in an aggregate principal amount of up to $100 million; the revolving commitments were subsequently reduced to $80 million (the "**First Lien Revolving Facility**" and the loans thereunder, the "**First Lien Revolving Loans**"). The First Lien Revolving Facility matures in October 2020. As of the Petition Date, an aggregate balance of approximately $79.5 million in principal amount of First Lien Revolving Loans remains outstanding and letters of credit with an aggregate face amount of approximately $500,000 were issued.

2. Second Lien Debt

28. On April 28, 2014, certain of the Debtors, among others, entered into that certain *Second Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Second Lien Credit Agreement**") by and among (i) Holdings; (ii) the Lux Borrower and the U.S. Borrower, as borrowers (collectively, the "**Second Lien Borrowers**"); (iii) the various lenders from time to time party thereto (collectively, the "**Second Lien Lenders**"), and WSFS (as successor agent to Barclays), as administrative and collateral agent (in such capacity, the "**Second Lien Agent**"), pursuant to which the Second Lien Lenders agreed to lend (i) on the original closing date, term loans to the Second Lien Borrowers in an aggregate principal amount of up to $485 million and (ii) on September 30, 2014, incremental term loans to the Second Lien Borrowers in an aggregate principal amount of $185 million (the "**Second Lien Term Loan Facility**" and the loans thereunder, the "**Second Lien Loans**").

29. The Second Lien Term Loan Facility matures in April 2022. As of the Petition Date, an aggregate principal amount of approximately $670 million is outstanding under the Second Lien Credit Agreement (the "**Second Lien Debt**"). The Second Lien Borrowers' obligations under the Second Lien Credit Agreement are guaranteed by Holdings, the Second Lien Borrowers, and the Subsidiary Guarantors. The Second Lien Debt is secured by a second-priority security interest in substantially all of the assets, subject to certain limitations and exclusions, of Holdings, the Second Lien Borrowers, and the Subsidiary Guarantors, with such security interests junior in all respects to the First Lien Debt.

3. Intercreditor Agreement

30. The relative contractual rights of the holders of First Lien Debt, on the one hand, and the holders of Second Lien Debt, on the other hand, are governed by that certain *First*

Lien/Second Lien Intercreditor Agreement, dated as of April 28, 2014 (as amended, supplemented, amended and restated or otherwise modified from time to time, the "**Intercreditor Agreement**"). The Intercreditor Agreement controls the rights and obligations of holders of First Lien Debt and Second Lien Debt with respect to, among other things, priority of security over collateral, matters of debtor-in-possession financing, the use of cash collateral, and adequate protection.

B. Non-Debtor Obligations

31. On December 20, 2018, the AR Borrower entered into that certain *Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**AR Facility Agreement**" and the facility provided thereunder, the "**Existing AR Facility**") by and between (i) the AR Borrower, as borrower; (ii) the lenders party thereto (collectively, the "**AR Facility Lenders**"); and (iii) CIT Bank, N.A., as administrative agent, collateral agent, and accounts bank (the "**AR Facility Agent**"). Pursuant to the AR Facility Agreement, the AR Facility Lenders agreed to provide the AR Borrower with revolving loans, subject to borrowing base availability, comprised of a Class A revolving line of credit up to $75 million (such line of credit, the "**Class A Loans**" and the AR Facility Agent and lenders party to the Class A Loans, the "**Class A Lenders**") and a Class B revolving line of credit up to $15 million (such line of credit, the "**Class B Loans**" and the lender party to the Class B Loans, the "**Class B Lender**"). The Class B revolving line of credit was added to the AR Facility Agreement pursuant to that certain *Amendment No. 2* to the AR Facility Agreement, entered into on September 9, 2019 to (i) upsize advance rates to 95% and (ii) allow an affiliate of the Sponsor to lend up to an incremental $15 million of subordinated debt under the AR Facility Agreement.

32. The AR Borrower's obligations under the AR Facility Agreement are secured by substantially all of the assets of the AR Borrower. Certain of the Debtors are "Originators" (as defined in the AR Facility Agreement) under the Existing AR Facility,

originating receivables which are then sold to the AR Borrower. The Originators continue to service the receivables sold to the AR Borrower and remit to the AR Borrower the proceeds of such receivables collected. However, none of the Originators or other Debtors guaranteed the obligations in connection with the Existing AR Facility except in limited circumstances relating to a breach by such Originator of certain representations or warranties made in respect of the underlying receivables sold by such Originator. After giving effect to that certain *Amendment No. 3* to the AR Facility Agreement, executed on June 12, 2020, the revolving period under the AR Facility Agreement is scheduled to terminate upon the earlier of (i) December 2023, (ii) the Effective Date, and (iii) the occurrence of certain other events specified under the AR Facility Agreement. As of the Petition Date, an aggregate principal amount of approximately $68 million was outstanding under the Existing AR Facility.

33. Pursuant to the Restructuring Support Agreement and *Amendment No. 3* to the AR Facility Agreement (which amendment modified the AR Facility Agreement to allow for continued funding during the pendency of the chapter 11 cases), the Existing AR Facility shall remain in place and the AR Facility Lenders shall, subject to the terms and conditions set forth in the AR Facility Agreement, continue to fund under the Existing AR Facility through consummation of the Plan. Additionally, pursuant to the Cooperation Agreement, the Class B Lender remains obligated to and will continue to make credit extensions to the AR Borrower in the ordinary course through the Effective Date to the extent that the Class A Lenders continue to make credit extensions through the Effective Date. On the Effective Date, the AR Facility Agreement is contemplated to be amended and restated into an exit AR Facility Agreement (the "**Exit AR Facility Agreement**") in a principal amount of up to $75 million, secured on the same basis as the Existing AR Facility, on terms that are materially consistent with the AR Facility

Agreement; *provided, however,* that all provisions relating to the Class B Loans may be modified to remove the Class B revolving line of credit or to replace the Class B Lender. The Debtors are currently in negotiations with the AR Facility Agent regarding the terms of the Exit AR Facility Agreement.

IV.
Events Leading to Restructuring

34. A combination of factors has led to the Company's present restructuring. In recent years, the Company experienced customer attrition as a result of, among other reasons, steep market competition that has been exacerbated in recent years by the entry of global enterprise technology companies into the space in which the Company operates. The Company's core markets have also seen aggressive growth from companies that provide free access to certain services that overlap with services that the Company provides its clients, serve as aggregators of services similar to those provided by the Company, and/or specialize in a subset of the services offered by the Company. The friction the Company has faced in adapting its business model to address market shifts in a timely matter, along with inconsistent growth across the Company's core business segments and integration issues with recent acquisitions, such as SumTotal, have also limited the Company's ability to use its resources to their full potential.

35. In late 2018 and throughout early 2019, the Company conducted a comprehensive review of its business model and, in April 2019 launched a transformation plan aimed at stabilizing the business (the "**Transformation Plan**"). As part of the Transformation Plan, the Company took a number of steps to reinvigorate its business model and achieve success in the market. Among other things, the Company implemented a revised organizational design to address specialization, focusing on four specific customer markets (Technology and Development, Business Skills, Compliance, and Talent Development). To address changing buying patterns and

the influence of users on the purchasing process, the Company began focusing on "prosumers" – the integration of professionals and consumers at their client organizations – by marketing directly to buyers that are closer to the ultimate end users of its products, including managers and technology executives, rather than by targeting sales directly to top organization executives. To further enhance its appeal to customers, the Company has simplified its offering structure and focused its sales teams on marketing a smaller suite of its most desirable products to market leaders.

36. The Company also conducted extensive evaluations of its technologies and delivery platforms, including by surveying its customers' preferences among several different platforms and software toolings offered by the Company. As part of its technology reevaluation, and in an effort to increase its renewal rates, the Company has migrated approximately fifty percent (50%) of its customers from its legacy Skillport platform to its intelligent learning experience platform, Percipio, which platform has been significantly enhanced since its introduction by the Company in late 2016. This migration process has progressed significantly, but the Company anticipates that fully migrating all customers to the Percipio platform will require another several years to complete. The release of additional features and functionality is anticipated to help facilitate the remaining moves.

37. The Transformation Plan has already begun to demonstrate successful results. For example, Q4 FY20 results showed increases over Q4 FY19 in customer renewal rates and in each of the content and SumTotal business segments. The Company's projections, created with the assistance of its advisors, show improving profitability as the Company continues to migrate customers to Percipio, enhance marketing efforts, and pursue other aspects of the

Transformation Plan.[5] However, notwithstanding these positive projections, the Company remains over-levered, with looming debt maturities in 2020 and 2021.

38. Like so many others, the Company is also facing adverse near-term business consequences from the macroeconomic effects of the COVID-19 pandemic. While the Company has been successful in operating under its business continuity plan and has kept its operations largely uninterrupted in the midst of this global crisis, COVID-19 has or may impact several of the Company's key business initiatives, including Percipio migrations and content development. The Company and its advisors also project that COVID-19 may result in decreased order intake and delayed customer collections in FY21, which could decrease the Company's operating liquidity significantly.

39. Recognizing the need to right-size its balance sheet, the Company retained Houlihan Lokey Capital, Inc. ("**Houlihan**") as investment banker and Weil, Gotshal & Manges LLP as counsel ("**Weil**"), each in December 2018, as well as AlixPartners, LLP ("**Alix**") as financial advisor in December 2019, to assist the Company in evaluating its strategic alternatives.

40. In the months leading up to these chapter 11 cases and with the goal of stabilizing and improving the Company's business, as well as to allow further time for negotiations among the Company's stakeholders to bear fruit, the Company's advisors helped the Company maximize the use of its existing sources of credit in order to increase liquidity. On September 9, 2019, the Company and the AR Facility Agent executed that certain *Amendment No. 2* to the AR Agreement to (i) upsize advance rates to 95% and (ii) allow an affiliate of the Sponsor to lend up

[5] The Company has worked diligently with its advisors to reevaluate the accuracy and applicability of its projections in light of drastic and unpredictable market changes stemming from the COVID-19 pandemic and to adjust its projections accordingly.

to an incremental $15 million of subordinated debt under the AR Agreement. The Company also fully drew on its First Lien Revolving Facility in March 2020.

41. In October 2019, the Company, with the assistance of Houlihan and Weil, launched a holistic, competitive marketing process for the sale of the Company's SumTotal business. During this marketing process, the Company and its advisors also responded to and actively engaged with potential third party buyers that expressed interest in a purchase of the whole Company. At the same time, the Company also focused on engagement with its key stakeholders, including (i) an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which collectively holds or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**"), which collectively holds or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt; and (iii) the Sponsor.

42. On April 30, 2020, to provide the Company with additional flexibility to continue constructive discussions with the Consenting Creditors, Skillsoft entered into forbearance agreements (the "**1L and 2L Forbearance Agreements**") with the Consenting Creditors with respect to certain defaults arising under the First Lien Credit Agreement and the Second Lien Credit Agreement. Specifically, under the 1L and 2L Forbearance Agreements, the First Lien Lenders and the Second Lien Lenders agreed to forbear from exercising their rights and remedies, including the right to accelerate any indebtedness arising out of defaults from, among other things, failure to make approximately $42 million in interest and amortization payments due April 30, 2020 (the "**April 30 Debt Service Payments**") and failure to comply with certain financial reporting requirements. The Company also entered into a forbearance agreement with the AR

Facility Agent (the "**AR Forbearance Agreement**" and, together with the 1L and 2L Forbearance Agreements, the "**Forbearance Agreements**") with respect to certain defaults arising under the Existing AR Facility, including, among others, certain cross-defaults arising from the Company's failure to make the April 30 Debt Service Payments.

43. The Debtors used the time afforded by the Forbearance Agreements to negotiate a comprehensive, consensual restructuring with the Consenting Creditors and the Sponsor and, on June 12, 2020, after months of hard-fought negotiations, the Debtors executed the Restructuring Support Agreement, pursuant to which the Consenting Creditors committed, subject to the terms and conditions of the Restructuring Support Agreement, to support the Debtors in their efforts to confirm the Prepackaged Plan, as well as to provide additional operating liquidity to the Debtors both during the chapter 11 cases and upon emergence.

44. The terms of the Restructuring are reflected in the Prepackaged Plan. Upon its full implementation, the Prepackaged Plan will effect a significant deleveraging of the Debtors' capital structure by eliminating approximately $1.5 billion in principal amount of funded debt. The reduced debt burden and exit financing anticipated under the Prepackaged Plan will provide the Debtors with sufficient liquidity, not only to continue funding their operations, but to make the necessary capital expenditures and investments to ensure that the Company will remain an industry leader in corporate learning.

V.
Canadian Recognition Proceeding

45. As detailed above, the Company is a global enterprise and conducts business in numerous foreign jurisdictions. In particular, Skillsoft Canada, a borrower under the First Lien Revolving Facility and guarantor with respect to the Company's First Lien Term Loan Facility and Second Lien Term Loan Facility, is incorporated under the laws of the Canadian

Province of New Brunswick and maintains assets and operations in that jurisdiction. It is therefore necessary to ensure that these chapter 11 cases, as well as orders of the Court issued herein, are recognized and respected in Canada.

46. As a result, Skillsoft Canada (as the proposed Foreign Representative (as defined below)) will shortly seek ancillary relief in Canada on behalf of the Debtors' estates pursuant to the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36 as amended (the "**CCAA**") in the Court of Queen's Bench of New Brunswick (Trial Division) (the "**Canadian Court**"). The purpose of this ancillary proceeding (the "**Canadian Recognition Proceeding**") is to request that the Canadian Court recognize these chapter 11 cases as a "foreign main proceeding" under the applicable provisions of the CCAA, and enforce this Court's orders in Canada to protect the Debtors' assets and operations in Canada and help implement the Restructuring.

47. Although the Debtors and their affiliates also operate in certain other foreign jurisdictions outside of the United States in addition to Canada, as a result of the largely consensual nature of the Restructuring, the Debtors do not believe additional proceedings will be necessary to give effect or implement these chapter 11 cases. The Debtors reserve all rights, however, to commence additional ancillary proceedings in other jurisdictions if they ultimately determine commencing additional proceedings is necessary or desirable to give effect to the chapter 11 cases and/or implement the Prepackaged Plan.

VI.
Debtors' Need for DIP Financing and Use of Cash Collateral[6]

48. As discussed above and in greater detail in the *Declaration of Christopher A. Wilson in Support of Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief,* Skillsoft's over-levered capital structure and struggles to integrate the SumTotal Business while facing increased market competition have necessitated the filing of these chapter 11 cases. Faced with mounting debt servicing payments and decreased order intake and trade contraction attributable to the COVID-19 pandemic, the Company's liquidity has tightened, particularly over the last six months, and is close to falling below the minimum liquidity cushion that Company management and advisors have deemed necessary for the Company to continue operating its business in the ordinary course. In light of these liquidity issues, the Debtors require immediate access to debtor-in-possession financing and authority to use cash collateral to ensure they have sufficient working capital to operate their businesses and to administer their estates. This combination of market changes, difficulty integrating the SumTotal asset, and struggling to overcome the unsustainable amount of debt the Company incurred in connection with the SumTotal acquisition, has led to an unstable capital structure and to a rapid decline of the Company's cash flows, which, if unaddressed, will stymie the Debtors' business operations.

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[6] Capitalized terms used but not otherwise defined in this section VI shall have the meaning ascribed to such terms in the *Motion of Debtors Pursuant to 11 U.S.C. § 363 and 364 for Entry Of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**DIP Motion**"), filed contemporaneously herewith.

49. As of the Petition Date, the Debtors are projected to face a liquidity shortfall that will render them incapable of servicing the Company's ordinary-course business needs within a matter of days, and the Debtors thus require immediate access to postpetition financing and authority to use cash collateral. Absent approval of the DIP Financing, the Debtors will not have the liquidity necessary to, among other things, fund payroll and satisfy their working capital and general corporate purposes. Access to sufficient working capital and liquidity is necessary and vital to ensure the Debtors' smooth entry into chapter 11 and their ability to operate their business prudently during these chapter 11 cases.

50. Prior to the Petition Date, the Debtors, in consultation with their professionals, reviewed and analyzed their projected cash needs and prepared an initial analysis of the amount of cash that would be reasonably required to complete the prepackaged chapter 11 cases. The analysis included, among other things, (i) the potential acceleration of demands on available liquidity, both with respect to the Debtors and their non-debtor affiliates; (ii) the availability to draw under the Existing AR Facility; and (iii) the potential impact of COVID-19. Based on this analysis, the Debtors determined they would be unable to fund these chapter 11 cases with cash on hand and would need incremental liquidity in the form of DIP Financing. This analysis culminated in an initial DIP Budget for the $60 million DIP Facility, which was shared with the Consenting Creditors prior to the commencement of these chapter 11 cases, and has developed into the Initial Approved Budget, which has been agreed to among the Company, the DIP Agent, the DIP Escrow Agent, and the DIP Lenders following good faith negotiations. I believe that the Initial Approved Budget (as attached to the DIP Motion as Exhibit B) provides an accurate reflection of the Debtors' funding requirements over the identified period and are reasonable and appropriate under the circumstances.

51. Absent the authority to enter into and access the DIP Financing, even for a limited period of time, the Company will be unable to continue operating its businesses, which will cause irreparable harm to the Debtors and their stakeholders. I believe it is imperative that the Company sends a clear message to its business partners, employees, and customers that it will be well-capitalized during the chapter 11 cases. Any market perception that the Debtors will not be able to sustain operations through the bankruptcy process may result in the loss of key customers and a decline in order intake that will exacerbate the Company's ability to successfully restructure and emerge as a going concern, especially considering the growing competitive market. It is my belief that the proposed DIP Financing is in the best interests of the Debtors and their stakeholders.

52. It is also my belief that the Debtors exercised appropriate business judgment in the selection of the DIP Lenders and negotiation of the DIP Financing. Leading up to the Petition Date, as part of the broader restructuring process, the Debtors, with the assistance of their professionals, searched for potential sources of postpetition financing that could provide sufficient liquidity to fund their business operations during the restructuring process. The vast majority of the Debtors' assets are encumbered by liens granted to the First Lien Lenders and Second Lien Lenders, such that any potential third-party financing would have to be all or partially unsecured, on a junior basis, "prime" the Company's existing secured lenders, or be secured by the Debtors' immaterial unencumbered assets. Additionally, the Company was informed by the First Lien Lenders that they would not consent to being primed by third-party DIP Financing, which, given the value of the Debtors' encumbered and unencumbered assets, would have made obtaining third-party financing difficult, if not impossible.

53. It is my understanding that the Fee Letters between the Debtors and each of the DIP Agent and the DIP Escrow Agent obligate the Debtors to maintain the confidentiality of the DIP Lenders' sensitive commercial information.

54. Despite the challenges associated with obtaining third-party DIP Financing as described above, Houlihan marketed the opportunity to provide the Debtors with DIP Financing to determine whether a third party would be willing to provide the Debtors with DIP Financing on better terms than those negotiated with the Consenting First Lien Lenders. Houlihan contacted and engaged with nine (9) institutions to solicit offers to provide the Debtors with postpetition debtor-in-possession financing on a junior lien basis, a priming basis, and/or on a secured basis collateralized only by collateral not encumbered by the Company's existing debt. None of the third parties contacted were willing to provide a DIP Financing proposal to the Company.

55. Having received only one DIP Financing proposal, the Company, with guidance from its advisors, actively negotiated the terms of the DIP Financing and was able to obtain concessions from the DIP Lenders on a number of key provisions. I believe the Debtors ultimately obtained a reasonable proposal from the DIP Lenders that meets the Company's liquidity needs at this critical juncture and should be approved.

VII.
First Day Pleadings

56. In addition to the DIP Motion, filed contemporaneously herewith, the Debtors have filed with the Court certain First Day Pleadings seeking orders granting various forms of relief intended to stabilize the Debtors' business operations, facilitate the efficient administration of these chapter 11 cases, and expedite a swift and smooth restructuring of the Debtors' capital structure. I am familiar with the contents of each First Day Pleading and believe that the relief sought in each First Day Pleading is necessary to enable the Debtors to operate in

chapter 11 with minimal disruption or loss of productivity and value, constitutes a critical element in achieving a successful reorganization of the Debtors, and best serves the Debtors' estates and creditors' interests. The facts set forth in each First Day Pleading are incorporated herein by reference. Capitalized terms used but not otherwise defined in this section of this Declaration shall have the meanings ascribed to them in the relevant First Day Pleadings. The First Day Pleadings include the following:

A. Administrative Motions and Applications

1. Joint Administration Motion

57. The Debtors request entry of an order directing joint administration of these chapter 11 cases for procedural purposes pursuant to Bankruptcy Rule 1015(b) and that the Court maintain one file and one docket for all of the chapter 11 cases under the lead case Skillsoft Corporation. Joint administration of these chapter 11 cases will provide significant administrative efficiencies without harming the substantive rights of any party in interest. The relief requested in the Joint Administration Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and will enable the Debtors to continue to operate their businesses in chapter 11 with the least disruption.

2. Motion for Authority to Redact Creditor Matrix

58. Pursuant to the Motion for Authority to Redact the Creditor Matrix, the Debtors request authority to file under seal and redact certain portions of their consolidated creditor mailing matrix. I understand that the information the Debtors seek to redact consists of confidential commercial information, including customer lists, and confidential personal information, including names and home addresses of individual employees, creditors, and stakeholders. I believe that filing such commercial information under seal and redacted in the Creditor Matrix is necessary because, without such relief, the un-redacted Creditor Matrix would

contain highly confidential commercial information, which could harm the Debtors' ability to retain customers during these chapter 11 cases. I further believe that redacting personal information of the Debtors' individual creditors and interest holders – many of whom are current and former employees – is warranted because such information is sensitive and could be used to perpetuate identity theft. Moreover, the European General Data Protection Regulation may apply to the Debtors as certain of the Debtors and their creditors are located in the European Union, and may therefore be citizens of the European Union protected by the disclosure regulations concerning personally identifiable information.

3. Kurtzman Carson Consultants LLC ("KCC") Retention Application

59. The Debtors request authority to retain and appoint KCC as Claims and Noticing Agent in accordance with the terms and conditions specified in the Engagement Agreement by and between the Company and KCC, dated as of March 20, 2020. KCC's duties will include, among other things, responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim filed in the Debtors' chapter 11 cases.

60. I believe the Company's selection of KCC to serve as its Claims and Noticing Agent has satisfied the Bankruptcy Court's Protocol for the Employment of Claims and Noticing Agents Under 28 U.S.C. § 156(c). Specifically, the Company solicited and reviewed engagement proposals from at least two other Court-approved claims and noticing agents to ensure selection through a competitive process. I believe that KCC's rates are competitive and reasonable given KCC's quality of services and expertise. The terms of KCC's retention are set forth in the Engagement Agreement attached to, and filed contemporaneously with, the KCC Retention Application. Appointing KCC as the Debtors' Claims and Noticing Agent will maximize the efficiency of the distribution of notices and the processing of claims, as well as relieve the Office

of the Clerk of the Bankruptcy Court of the administrative burden of processing an overwhelming number of claims.

4. Scheduling Motion

61. The Debtors request that the Court enter an order (i) scheduling a combined hearing to approve the Disclosure Statement and Solicitation Procedures, and confirm the Prepackaged Plan; (ii) approving objection procedures and deadlines in connection with the Prepackaged Plan and Disclosure Statement; (iii) approving the objection procedures and deadlines in connection with the Debtors' assumption or rejection of executory contracts and leases; (iv) approving the notice of the combined hearing, objection deadline, and notice of commencement; (v) conditionally waiving the requirement to file statements of financial affairs and schedules of assets and liabilities; and (vi) conditionally waiving the Section 341 Meeting.

62. The holders of First Lien Debt Claims (Class 3) and Second Lien Debt Claims (Class 4) are the only classes of claims entitled to vote on the Prepackaged Plan. Accordingly, on June 14, 2020, KCC transmitted a Solicitation Package (defined below) to the holders of First Lien Debt Claims (Class 3) and Second Lien Debt Claims (Class 4). The Solicitation Package included, among other things: the Proposed Order approving the relief sought in the Scheduling Motion, a notice of the hearing on the Disclosure Statement and confirmation of the Prepackaged Plan, a link to the Debtors' website page containing the proposed Plan and proposed Disclosure Statement, and a ballot (a "**Ballot**") containing instructions on how to vote on the Prepackaged Plan (the "**Solicitation Package**"). KCC transmitted the Solicitation Package to the holders of First Lien Debt Claims (Class 3) and Second Lien Debt Claims (Class 4) by

email.[7] Pursuant to the Scheduling Motion, the Debtors have requested the Court approve the voting deadline of June 26, 2020 at 5:00 p.m. (Prevailing Eastern Time).

63. I understand from counsel that the Debtors' solicitation of the Prepackaged Plan is in compliance with the Bankruptcy Code and the Bankruptcy Rules. I also believe, based on discussion with counsel, that the proposed service of the Solicitation Package will provide sufficient notice to all parties in interest in the Debtors' chapter 11 cases of the commencement of such cases, the date, time, and place of the Combined Hearing, and the procedures for objecting to the adequacy of the Disclosure Statement and Solicitation Package, and the confirmation of the Prepackaged Plan (including the release and exculpation provisions contained therein). Finally, I believe that setting a combined hearing on the Prepackaged Plan and Disclosure Statement, in combination with the aforementioned noticing and solicitation procedures, is necessary to allow the Debtors to comply with the Milestones provided for in the Restructuring Support Agreement and prosecute the chapter 11 cases in an expeditious manner, thereby minimizing administrative costs and delays and avoiding operational disruption to the Debtors' business for the benefit of all parties in interest.

B. Operational Motions Requesting Immediate Relief

1. Cash Management Motion

64. The Debtors request authority to continue their existing cash management system, honor certain prepetition obligations related thereto, continue ordinary course

[7] As discussed in more detail in the Scheduling Motion, it is my understanding that the First Lien Agent and the Second Lien Agent were unable to produce contact information for all presumptive holders of First Lien Debt Claims and Second Lien Debt Claims, respectively. The Debtors, via KCC, distributed Solicitation Packages to all holders of First Lien Debt Claims and Second Lien Debt Claims to the extent such contact information was made available. To help ensure all holders of First Lien Debt Claims and Second Lien Debts Claims receive a Ballot, the Debtors instructed the First Lien Agent and the Second Lien Agent to post information on the public side of each of the Lender data sites regarding commencement of solicitation on the Plan, including detailed instructions on how to obtain a Ballot in the event any holder did not receive one.

intercompany transactions between and among the Debtors and their non-debtor affiliates and subsidiaries, and continue to perform under the AR Facility Agreement and AR Purchase Agreement and to grant customary protections to the purchasers of such receivables, and other related relief.

65. The Cash Management System is an ordinary course, customary, and essential business system similar to those commonly employed by businesses comparable in size and scale to the Debtors. The Cash Management System is tailored to the Company's needs and enables the Debtors to control and monitor corporate funds, ensure cash availability and liquidity across the Debtors' global operations, comply with the requirements of their financing agreements, and reduce administrative expenses by facilitating the movement of funds and the development of accurate account balances.

66. The Cash Management System constitutes an ordinary course and essential business practice providing significant benefits to the Debtors, including the ability to control corporate funds, ensure the maximum availability of funds when and where necessary, reduce borrowing costs and administrative expenses by facilitating the movement of funds, and ensure the availability of timely and accurate account balance information. The use of the Cash Management System has historically reduced the Company's expenses. Accordingly, maintaining the existing Cash Management System is in the best interest of all parties in interest.

67. The Debtors believe Court approval is not necessary to continue entering into and performing Ordinary Course Intercompany Transactions between and among Debtors and non-debtor affiliates. However, out of an abundance of caution and in light of the underlying importance of such transactions to the Debtors' businesses and operations, the Debtors seek express authority to continue such transactions. The Debtors rely upon Ordinary Course

Intercompany transactions to provide for the necessary flow of intellectual property, funding of research and development, administration, and cash needs of their businesses. Without the authority to enter into such transactions, the Debtors would be unable to operate their businesses due to loss of critical services and liquidity. Accordingly, continuing the Ordinary Course Intercompany Transactions is in the best interests of the Debtors, their estates, and parties in interest.

68. Pursuant to the AR Purchase Agreement, the AR Borrower purchases accounts receivable from the Originators in exchange for cash borrowed by the AR Borrower under the AR Facility Agreement. The sale of the Receivables from the Originators to the AR Borrower provides the Originators with liquidity to fund operating disbursements and limits certain risks of non-collection associated with the Receivables. Accordingly, allowing the Debtors to continue their ordinary course cash management practices under the AR Facility Agreement and the AR Purchase Agreement, including, but not limited to, the sale of Receivables from the Originators to the AR Borrower and subsequent remittance of the cash proceeds of such receivables to the AR Borrower consistent with the terms of the relevant agreements with the AR Borrower is in the best interests of the Debtors, their estates, and parties in interest.

2. Employee Wages and Benefits Motion

69. The Debtors request authority to continue certain Employee-related programs and to pay and honor associated prepetition claims and obligations. The relief requested includes compensation for the Debtors' employees working domestically and abroad. I believe that the Employees' experience, technological expertise, and knowledge of the Company's infrastructure and operations, as well as their relationships with customers, partners, vendors, and other industry contacts, render them critical and invaluable to the Company's ongoing operations, particularly during these chapter 11 cases.

70. As of the Petition Date, the Company employs approximately 2,200 individuals globally. I understand that the majority of the Company's Employees rely exclusively on their compensation, benefits, and reimbursement of expenses to satisfy their daily living expenses. I believe Employees will be exposed to significant financial hardships and other distractions if the Debtors are not permitted to honor their obligations for unpaid compensation, benefits, and reimbursable expenses. Furthermore, if the Company is unable to honor their various obligations under the Health Insurance Programs, the Employees will not receive health and welfare coverage and, thus, may become obligated to pay certain health care claims in cases where the Company has not paid the respective insurance providers. The loss of health care coverage will result in considerable stress and anxiety for Employees (and likely attrition) at a time when the Company needs such Employees to perform their jobs at peak efficiency. Additionally, Employee attrition would cause the Debtors to incur additional expenses to find, onboard, and train appropriate and experienced replacements, severely disrupting the Company's operations at this critical juncture.

3. Trade Claims Motion

71. The Debtors seek authority to pay in full, in their discretion the ordinary course of business allowed prepetition claims of creditors (the "**Trade Creditors**" and such claims, the "**Trade Claims**") that provide goods or services related to the Debtors' operations, 503(b)(9) Claimants, Critical Vendors, and ordinary course professionals and all other trade claimants holding non-priority prepetition claims against the Debtors. The Company's business is based in large part on its ability to provide seamless and efficient services to customers. It is therefore imperative that the Debtors maintain positive relationships with the providers of the goods and services essential to their business operations throughout of these cases. Even a

short-term disruption to the Company's ability to provide services to customers could be catastrophic to the Company's operations and businesses.

72. The Trade Creditors provide the Debtors with the essential goods and services that facilitate their operations, and consist of the Debtors' (i) content providers (ii) datacenters providing essential hosting services and uninterrupted network connection for the Debtors' various online platforms, (iii) software vendors that provide the Debtors with licenses to integrate certain software applications into their learning products, (iv) marketing services, (v) providers of IT support and digital security for software vulnerability and malware protection, and (vi) business services and other general operational expenses that are not addressed in other first day motions. The Debtors are seeking to pay the claims asserted by the Trade Creditors as they become due and payable in the ordinary course of the Debtors' business.

73. In identifying the Critical Vendors included in the Trade Creditor category, the Debtors and their advisors spent significant time and effort reviewing and analyzing the Debtors' books and records, consulting operations management and purchasing personnel, reviewing contracts and supply agreements, and analyzing applicable laws, regulations, and historical practices to identify business relationships which, if lost, could materially harm the Debtors' businesses or impair their restructuring process.

74. In addition, the Trade Creditors include those claimants who, prior to the Petition Date, in the ordinary course of business, delivered goods to the Debtors within 20 days of the Petition Date, giving rise to administrative expense claims under section 503(b)(9) of the Bankruptcy Code. While the Debtors do not anticipate the delivery of any goods in the ordinary course within the 20-day window prior to the Petition Date, the Debtors are seeking authority to satisfy any such claims in the ordinary course of business, as failure to do so at the outset of these

chapter 11 cases could result in the 503(b)(9) Claimants refusing to do business with the Debtors going forward, and could cause such claimants to impose stricter payment terms on the Debtors, negatively impacting the Debtors' liquidity position, or may cause the 503(b)(9) Claimants themselves financial distress sufficient to threaten their operational viability.

75. I believe it is a sound exercise of the Debtors' business judgment to pay the Trade Claims as they become due in the ordinary course of business because doing so will avoid value-destructive business interruption and will not prejudice the Debtors' other stakeholders. The Prepackaged Plan provides for the full and uninterrupted payment of such claims. The goods and services provided by Trade Creditors are necessary for the continued, uninterrupted operation of the Debtors' businesses. I believe that failure to pay the Trade Claims as they become due is likely to result in many Trade Creditors refusing to provide essential goods and services or conditioning the delivery of such goods and services on compliance with onerous and commercially unreasonable terms.

76. Moreover, no party in interest will be prejudiced by the relief requested in the Trade Claims Motion because the Trade Claims are unimpaired and will be paid in full under the Prepackaged Plan and, as discussed in the Trade Claims Motion, many of the Trade Claims enjoy statutory or other priority and are otherwise entitled to be paid in full. The relief requested in the Trade Claims Motion seeks to alter only the timing, not the amount or priority, of such payments. Furthermore, I believe that paying the modest amount of Trade in the ordinary course is prudent when compared to the amount the Debtors' stakeholders stand to lose if the Debtors' business were interrupted.

4. Taxes Motion

77. The Debtors seek authority to remit and pay certain taxes, assessments, fees, and other charges in the ordinary course of business, including any taxes, assessments, fees, and

charges subsequently determined upon audit, or otherwise, to be owed. The Debtors collect, withhold and incur an assortment of Taxes and Fees that they remit periodically to various U.S. and foreign national, state, and local taxing, licensing, regulatory and other governmental authorities. Certain of the Taxes and Fees collected prepetition are not property of the Debtors' estates but, rather, are held in trust for the applicable Authorities. The Company also seeks to pay certain Taxes and Fees to, among other things, forestall Authorities from taking actions that may interfere with the Debtors' administration of these chapter 11 cases. I believe allowing the Company to continue remitting and paying Taxes and Fees in the ordinary course of business is in the best interests of the Debtors' estates, the Debtors' creditors, and all other parties in interest. If the Company is not allowed to remit Taxes and Fees, this could cause a material adverse impact on the Debtors' ability to operate in jurisdictions where they do business and may lead to the imposition of liens on the Debtors' assets, the accrual of interest charges, and/or the imposition of fees and penalties, thereby depleting the value of the Debtors' estates.

5. Insurance Motion

78. The Debtors request authority to continue to maintain and renew their Insurance Policies and Programs, continue honoring their Insurance Obligations on a postpetition basis in the ordinary course of business, and pay accrued and outstanding prepetition amounts due in connection with the Insurance Obligations.

79. In connection with operating its business, the Company maintain various Insurance Policies and Programs, which help manage and limit various business risks. Pursuant to the Insurance Policies, the Company pays certain Insurance Premiums in addition to various deductibles. The majority of the Insurance Premiums are either paid in full at the time of renewal, or paid in quarterly installments and remitted to the Broker.

80. I believe the Insurance Policies and Programs are essential to mitigating risk and to the preservation of the value of the Company's business and assets. I understand the Company is required legally and contractually to maintain these programs, and the failure to do so will prevent the Debtors from undertaking essential functions related to their operations. Moreover, termination or lapse in the programs may result in substantial liability to the Company, including monetary fines, criminal prosecution, and personal liability, among others, to the detriment of all parties in interest.

6. Utilities Motion

81. By the Utilities Motion, the Debtors are requesting approval of their proposed form of adequate assurance of payment to utility providers, approval of certain procedures for determining adequate assurance of payment for future utility services (the "**Adequate Assurance Procedures**"), and a prohibition on utility providers from altering, refusing, or discontinuing utility service on account of the commencement of these chapter 11 cases and/or outstanding prepetition invoices.

82. In the ordinary course of business, the Debtors incur expenses for, among other things, electricity, natural gas, water, sewage, telecommunications, and waste services. I believe that preserving utility services on an uninterrupted basis is essential to the Debtors' ongoing operations. The Debtors operate and maintain their corporate U.S. headquarters in Nashua, New Hampshire with additional offices in Boston, Massachusetts, Burlington, Massachusetts, Norwood, Massachusetts, Gainesville, Florida, Scottsdale, Arizona, Des Moines, Iowa, Parsippany, New Jersey, Knoxville, Tennessee, Columbus, Ohio, and Rochester, New York, and any interruption in utility services – even for a brief period of time – would seriously disrupt the Debtors' ability to continue operations and service their customers. Such a result could seriously jeopardize the Debtors' restructuring efforts and, ultimately, creditor recoveries.

83. Furthermore, I believe the Adequate Assurance Procedures are necessary for the Debtors to effectuate their chapter 11 strategy without unnecessary and costly disruptions on account of discontinued utility services. If the Adequate Assurance Procedures are not approved, the Debtors likely will be confronted with and forced to address numerous requests by their utility providers at a critical time for their businesses. I understand that the Debtors' utility providers could unilaterally decide that they are not adequately protected and, therefore, may be entitled to either make exorbitant demands for payment to continue providing service or discontinue providing service to the Debtors altogether. Such an outcome could seriously jeopardize the Debtors' operations and their ability to maximize the value of their estates.

7. Automatic Stay Comfort Motion

84. Sections 362, 365, 525, and 541 of the Bankruptcy Code automatically provide certain protections to the Debtors as a result of filing these chapter 11 cases; however, given the nature of the Company's business, many of the Debtors' creditors, contract counterparties, and other parties in interest are based outside of the United States and may be unfamiliar with these provisions of the Bankruptcy Code. Accordingly, the Debtors seek entry of an order embodying these aspects of the Bankruptcy Code. The Debtors are not asking the Court to grant any relief beyond the protections that are already automatically provided to the Debtors under the Bankruptcy Code, but merely seek a "comfort order" that can be shown to parties in interest.

8. Motion to Appoint Skillsoft Canada as Foreign Representative

85. As discussed above, the Company intends to commence the Canadian Recognition Proceeding shortly after commencing these chapter 11 cases to request that the Canadian Court recognize these chapter 11 cases as a "foreign main proceeding" under the

applicable provisions of the CCAA, and enforce this Court's orders in Canada to protect the Debtors' assets and operations in Canada and help implement the Debtors' restructuring.

86. Section 46 of the CCAA provides that a foreign representative may apply to a Canadian court for recognition of a foreign proceeding. CCAA, R.S.C., Ch. C-36, § 46 (1985) (Can.). Under the CCAA, a recognition application must be accompanied by a "certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative's authority to act in that capacity." Id. at § 46(2)(b). Accordingly, in order for Skillsoft Canada to be recognized as the foreign representative in the Canadian Recognition Proceeding, and thereby apply to have these chapter 11 cases recognized by the Canadian Court, this Court must enter an order authorizing Skillsoft Canada to act as the foreign representative in the Canadian Recognition Proceeding. If the order is granted, Skillsoft Canada will be able to file the order with the Canadian Court as the instrument authorizing Skillsoft Canada to act as foreign representative pursuant to section 46 of the CCAA.

87. Accordingly, pursuant to the Motion to Appoint the Foreign Representative, the Debtors are requesting entry of an order appointing Skillsoft Canada as foreign representative ("**Foreign Representative**") on behalf of the Debtors' estates in the Canadian Recognition Proceeding. Because the Debtors have assets in Canada, it is critical that a stay similar to the automatic stay imposed pursuant to section 362 of the Bankruptcy Code be granted in Canada, and that this Court's orders also be recognized in Canada. Indeed, the Restructuring Support Agreement requires the Debtors to commence the Canadian Recognition Proceeding and imposes certain Milestones with respect to the Canadian Recognition Proceeding, including entry of orders

by the Canadian Court recognizing and enforcing the DIP Orders and confirmation of the Prepackaged Plan.

C. Relief Requested by Several First Day Pleadings

88. Several of the First Day Pleadings request authority to pay certain prepetition claims against the Debtors. I understand that Rule 6003 of the Federal Rules of Bankruptcy Procedure provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first 21 days following the filing of a chapter 11 petition, "except to the extent relief is necessary to avoid immediate and irreparable harm." In light of this requirement, the Debtors have narrowly tailored their requests for immediate authority to pay certain prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors and their estates. The Debtors will defer seeking other relief to subsequent hearings before the Court.

89. I am familiar with the content and substance of each of the First Day Pleadings. I believe approval of the relief sought in each of the First Day Pleadings is critical to the Debtors' ability to successfully implement their chapter 11 strategy, with minimal disruption to their business operations. Obtaining the relief sought in the First Day Pleadings will permit the Debtors to preserve and maximize the value of their estates for the benefit of all of their stakeholders.

VI.
Conclusion

90. This declaration illustrates the factors that have precipitated the commencement of the chapter 11 cases and the critical need for the Debtors to obtain the relief requested in the First Day Pleadings.

I declare under penalty of perjury that, after reasonable inquiry, the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 14th day of June, 2020

/s/ *John Frederick*
John Frederick
Chief Administrative Officer

Skillsoft Corporation and its Debtor affiliates

EXHIBIT A

Corporate Structure Chart

skillsoft

SYMBOL LEGEND

- Borrower under the 1L Credit Agreement (Term Loan)
- Guarantor under the 1L Credit Agreement (Term Loan)
- Revolver Borrower under the 1L Credit Agreement
- Guarantor under the 1L Credit Agreement (Revolver)
- Borrower under the 2L Credit Agreement
- Guarantor under the 2L Credit Agreement
- Borrower under the AR Agreement
- Originator under the AR Agreement
- Chapter 11 Debtor
- Evergreen Skills Entities

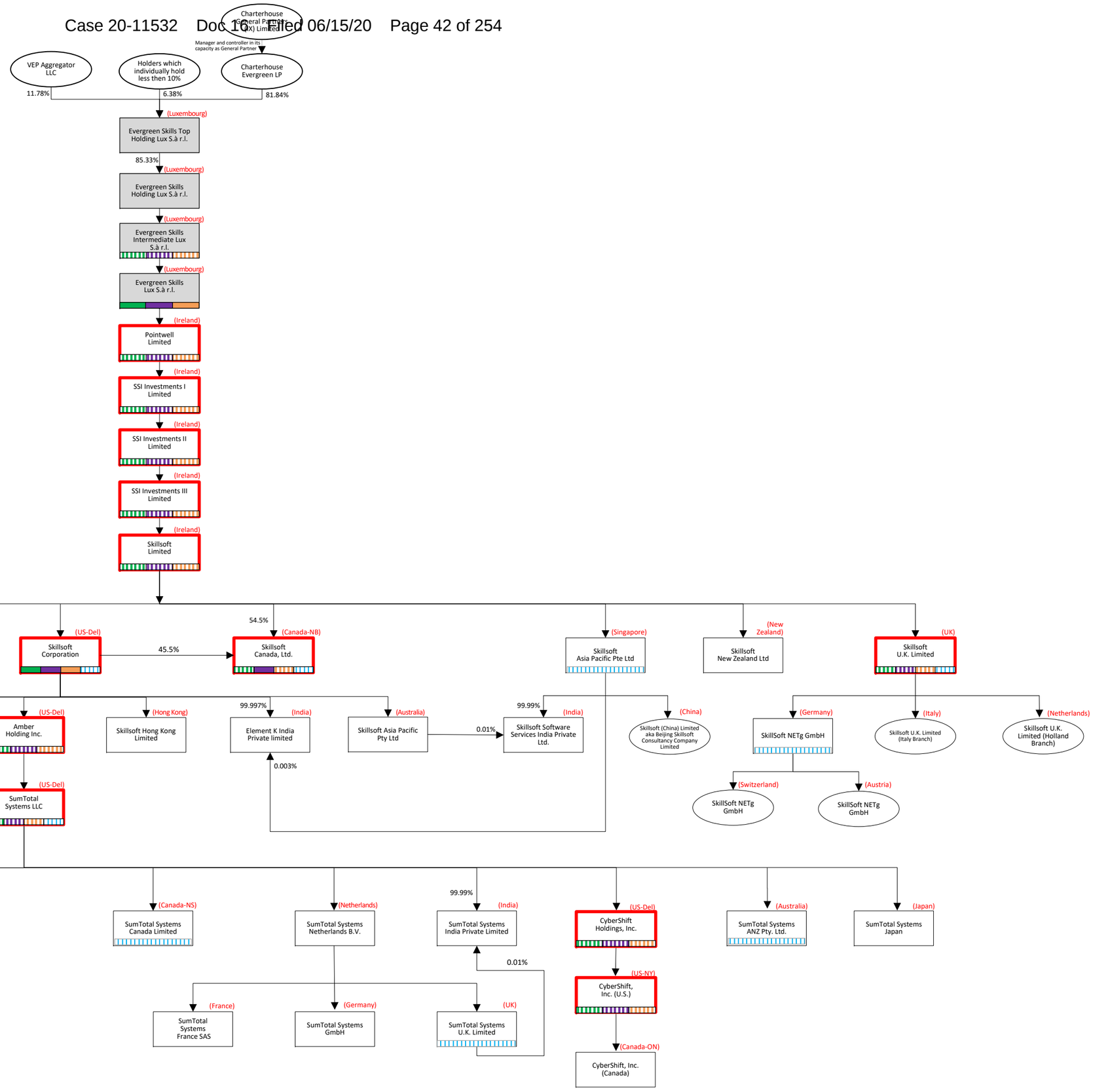


EXHIBIT B

Restructuring Support Agreement

EXECUTION VERSION

RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (collectively with the Reorganization Term Sheet (as defined below) and all other exhibits, schedules and attachments hereto and thereto, each as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, this "**Agreement**"), dated as of June 12, 2020, is entered into by and among:

(a) Pointwell Limited, a private limited company incorporated in Ireland, having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 and registered under number 540778 (the "**Parent**"), and each entity listed on Schedule 1 to the Reorganization Term Sheet, each such entity a subsidiary or affiliate of the Parent (each, a "**Company Party**" and, collectively with the Parent, the "**Company**" or the "**Debtors**"); and

(b) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**First Lien Credit Agreement**"; the term loans issued thereunder, the "**First Lien Term Loans**"; the revolving loans issued thereunder, the "**First Lien Revolving Loans**" and, together with the First Lien Term Loans, the "**First Lien Debt**") among Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054 ("**Holdings**"), Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790 (the "**Lux Borrower**"), Skillsoft Canada Ltd, a New Brunswick corporation (the "**Canadian Borrower**"), and Skillsoft Corporation (the "**U.S. Borrower**" and, collectively with the Lux Borrower and the Canadian Borrower, the "**First Lien Borrowers**"), the administrative and collateral agent party thereto (in such capacity, the "**First Lien Agent**"), the lenders party thereto from time to time (the "**First Lien Lenders**" and, the undersigned First Lien Lenders (together with their respective successors and permitted assigns) and any subsequent First Lien Lender that becomes party hereto in accordance with the terms hereof, each in its capacity as a First Lien Lender, each individually, a "**Consenting First Lien Lender**" and, collectively, the "**Consenting First Lien Lenders**"), and the other parties thereto from time to time; and

(c) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain Second Lien Credit Agreement, dated as of April 28, 2014, (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Second Lien Credit Agreement**" and, together with the First Lien Credit Agreement, the "**Credit Agreements**"; the term loans issued under the Second Lien Credit Agreement, the "**Second Lien Debt**" and, together with the First Lien Debt, the "**Indebtedness**") among Holdings, the Lux Borrower, the U.S. Borrower (together with the Lux Borrower in their capacity borrowers under the Second Lien Credit Agreement, the "**Second Lien Borrowers**"), and the administrative and collateral agent party thereto (in such capacity, the "**Second Lien Agent**" and, together with the First Lien Agent, the "**Agents**"), the lenders party thereto from time to time (the "**Second Lien Lenders**" and, the undersigned Second Lien Lenders (together with their respective successors and permitted assigns) and any subsequent Second Lien Lender that becomes

party hereto in accordance with the terms hereof, each in its capacity as a Second Lien Lender, each individually, a "**Consenting Second Lien Lender**" and, collectively, the "**Consenting Second Lien Lenders**" and, together with the Consenting First Lien Lenders, the "**Consenting Creditors**").

The Company Parties and each Consenting Creditor, and any subsequent Person that becomes a party hereto in accordance with the terms hereof are referred to herein collectively as the "**Parties**" and each individually as a "**Party**" until the end of the Support Period applicable to it. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Restructuring Term Sheets (defined below), as applicable.

RECITALS

WHEREAS, the Parties have negotiated in good faith at arm's length and agreed to enter into certain transactions in furtherance of a global restructuring of the Company's capital structure (the "**Restructuring**"), which is anticipated to be implemented through, among other things, a plan of reorganization (as may be supplemented, amended, or modified from time to time, the "**Plan**" and any supplement(s) thereto, as such may be supplemented, amended, or modified from time to time, the "**Plan Supplement**"), a corresponding disclosure statement in respect of the Plan (as may be supplemented, amended, or modified from time to time, the "**Disclosure Statement**"), a solicitation of votes thereon (the "**Solicitation**" and the materials with respect thereto, the "**Solicitation Materials**"), and the commencement by the Parent and each Company Party of a voluntary case (the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**");

WHEREAS, as of the date hereof, the Consenting First Lien Lenders, in the aggregate, hold, manage, or control approximately 81.2% of the aggregate outstanding principal amount of the First Lien Debt, including approximately 84.1% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 33.3% of the aggregate outstanding principal amount of the First Lien Revolving Loans;

WHEREAS, as of the date hereof, the Consenting Second Lien Lenders, in the aggregate, hold, manage, or control approximately 83.5% of the aggregate outstanding principal amount of the Second Lien Debt;

WHEREAS, the Company and certain of the Consenting First Lien Lenders (in such capacity, the "**DIP Lenders**") have reached an agreement regarding the Company's entry into the DIP Credit Agreement (defined below);

WHEREAS, the Restructuring contemplates pursuing a recapitalization transaction in accordance with the terms of the Reorganization Term Sheet (defined below); and

WHEREAS, subject to the terms and conditions set forth herein, the Parties desire to express to each other their mutual support and commitment in respect of the matters set forth in this Agreement, including the Restructuring Term Sheets;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound on a several but not joint basis, agree as follows:

1. **Certain Definitions.**

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

(a) "**Ad Hoc Crossholder Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit A** hereto (together with their respective successors and permitted assigns) represented by Milbank LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 38.50% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 36.76% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 66.67% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 79.07% of the aggregate outstanding principal amount of the Second Lien Debt.

(b) "**Ad Hoc First Lien Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit B** hereto (together with their respective successors and permitted assigns) represented by Gibson, Dunn & Crutcher LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 51.28% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 54.44% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 0.00% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 6.36% of the aggregate outstanding principal amount of the Second Lien Debt.

(c) "**Alternative Transaction"** means any new money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, winding up, assignment for the benefit of creditors, transaction, debt investment, equity investment, joint venture, partnership, sale, plan proposal, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more of the Parent, the Company Parties or a non-Debtor subsidiary of Parent or the debt, equity, or other interests in any one or more of the Parent or a subsidiary of Parent that is an alternative to the Restructuring (including any of the Restructuring Transactions), the Plan and the transactions contemplated by the Plan.

(d) "**Board Incentive Plan**" or "**BIP**" means a post-Effective Date board of directors incentive plan, consistent in all material respects with the terms set forth on the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(e) "**Business Day**" means any day, other than a Saturday, Sunday, or "legal holiday" (as defined in Rule 9006(a) of the Federal Rules of Bankruptcy Procedure).

(f) "**Canadian Court**" means the Court of Queen's Bench of New Brunswick (Trial Division).

(g) "**Canadian Final DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Final DIP Order in Canada.

(h) "**Canadian Initial Recognition Order**" means an order of the Canadian Court, which, among other things, recognizes the Chapter 11 Cases as a "foreign main proceeding" under Part IV of the CCAA, commences the Canadian Recognition Proceeding and grants a stay in Canada.

(i) "**Canadian Interim DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which, among other things, recognizes the Interim DIP Order in Canada and provides for a super priority charge over the collateral of the Canadian Borrower and collateral located in Canada of the other Company Parties in respect of the DIP Lenders' claims. For the avoidance of doubt, the Canadian Interim DIP Recognition Order may be part of the Canadian Supplemental Order.

(j) "**Canadian Plan Confirmation Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Confirmation Order in Canada.

(k) "**Canadian Recognition Orders**" means, collectively, the Canadian Initial Recognition Order, the Canadian Interim DIP Recognition Order, the Canadian Supplemental Order, the Canadian Final DIP Recognition Order, the Canadian Plan Confirmation Recognition Order and any other order of the Canadian Court in the Canadian Recognition Proceeding.

(l) "**Canadian Recognition Proceeding**" means a proceeding commenced in the Canadian Court to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring.

(m) "**Canadian Supplemental Order"** means an order of the Canadian Court, which grants customary additional relief in the Canadian Recognition Proceeding.

(n) "**CCAA**" means the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended.

(o) "**Claim**", with respect to Parent or any Company Party, has the meaning set forth in section 101(5) of the Bankruptcy Code.

(p) "**Confirmation Order**" means the order of the Bankruptcy Court confirming the Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Disclosure Statement).

(q) "**Consenting Creditor Advisors**" means Consenting Creditor Counsel, Greenhill & Co., LLC, as financial advisor to the Ad Hoc First Lien Group, Moelis & Company LLC, as financial advisor to the Ad Hoc Crossholder Group, and any other professional advisors (including non-U.S. counsel and local counsel) that may be retained from time to time by the Ad Hoc First Lien Group or the Ad Hoc Crossholder Group.

(r) "**Consenting Creditor Counsel**" means Gibson, Dunn & Crutcher LLP, as counsel to the Ad Hoc First Lien Group, and Milbank LLP, as counsel to the Ad Hoc Crossholder Group.

(s) "**Definitive Documents**" means (i) this Agreement, (ii) the Plan and the Plan Supplement, (iii) the Disclosure Statement and the Solicitation Materials, (iv) the Confirmation Order, (v) the motion seeking approval by the Bankruptcy Court of the DIP Facility, the applicable proposed DIP Orders related thereto, and the DIP Financing Documents, (vi) the New Corporate Governance Documents, (vii) any material document implementing the Restructuring, including, the Pledge Enforcement Documents, the Canadian Recognition Orders, any material motion, brief, or other pleading filed by the Company in the Chapter 11 Cases or by the Company or its "foreign representative" (or equivalent) in any recognition or ancillary proceeding; (viii) the Exit Financing Documents, (ix) the Exit AR Financing Documents, (x) the Warrant Agreements, (xi) the Incentive Plans, and (xii) any material motion or pleading seeking approval or confirmation of any of the foregoing documents, including the motion to approve the Disclosure Statement, the brief in support of confirmation, and pleadings in support of recognition in a Recognition Proceeding, and (xiii) any proposed order to approve any of the foregoing.

(t) "**DIP Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the DIP Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(u) "**DIP Facility**" means the debtor-in-possession facility to be provided to the Company pursuant to (x) the DIP Credit Agreement and (y) the terms and conditions of the interim and final orders of the Bankruptcy Court approving the same (respectively, the "**Interim DIP Order**" and the "**Final DIP Order**" and, collectively, the "**DIP Orders**").

(v) **"DIP Financing Documents**" means the DIP Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith and the DIP Orders, in each case, in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(w) "**DIP and Exit Facility Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit C**.

(x) "**Effective Date**" means the date upon which all conditions to the effectiveness of the Plan have been satisfied or waived in accordance with the terms thereof and the Plan becomes effective.

(y) "**Evergreen Skills Entities**" means Holdings, the Lux Borrower, Evergreen Skills Holding Lux, and Evergreen Skills Top Holding Lux.

(z) "**Existing AR Credit Agreement**" means that certain Credit Agreement (as may be further amended, restated, amended and restated, waived, supplemented, or otherwise modified from time to time), dated as of December 20, 2018, among Skillsoft Receivables

Financing LLC, a Delaware Limited Liability Company, the lenders party thereto and CIT Bank, N.A., as administrative agent, collateral agent and accounts bank ("**CIT**").

(aa) "**Exit AR Credit Agreement**" means the credit agreement evidencing the Exit AR Facility on the terms set forth in the Reorganization Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(bb) "**Exit AR Financing Documents**" means the Exit AR Credit Agreement, as well as related agreements, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(cc) "**Exit Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the Exit Credit Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(dd) "**Exit Credit Facility**" means the term loan facility to be provided to the Company on the Effective Date pursuant to the Exit Credit Agreement.

(ee) "**Exit Financing Documents**" means the Exit Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ff) "**Governance Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit E**.

(gg) "**Incentive Plans**" means the Board Incentive Plan and the Management Incentive Plan.

(hh) "**Interest**" means any equity interest (as defined in section 101(16) of the Bankruptcy Code) of the Parent or any Company Party, including all ordinary shares, units, common stock, preferred stock, membership interests, partnership interests or other instruments, evidencing any fixed or contingent ownership interest in the Parent or any Company Party, whether or not transferable, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest in the Parent or any Company Party, that existed immediately before the Effective Date.

(ii) "**Management Incentive Plan**" or "**MIP**" means a post-Effective Date management incentive plan consistent in all material respects with the terms in the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(jj) "**New Board**" means the board of directors of Newco Parent.

(kk) "**New Corporate Governance Documents**" means the applicable Organizational Documents and stockholders agreement (if applicable) of Newco Parent, in each

case, consistent with the Governance Term Sheet and in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ll) "**Newco Borrower**" means a newly-formed entity organized under the laws of Luxembourg that will directly own 100% of the equity interests of the Reorganized Parent.

(mm) "**Newco Equity**" means the equity interests of Newco Parent to be issued in connection with implementation of the Plan.

(nn) "**Newco Parent**" means a newly-formed entity organized under the laws of Luxembourg that will directly or indirectly own 100% of the equity interests of the Reorganized Parent and be treated as a corporation for tax purposes, as set forth in the Restructuring Transaction Steps.

(oo) "**Organizational Documents**" means, of any Person, the forms of certificates or articles of incorporation, certificates, or articles of formation, bylaws, constitutions, limited liability company agreements, or other forms of organization documents of such Person.

(pp) "**Person**" means any "person" as defined in section 101(41) of the Bankruptcy Code, including any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

(qq) "**Pledge Enforcement**" means the appointment of a receiver (the "**Receiver**") in Ireland and/or exercise of other rights and remedies by the Collateral Agent (approved by the Parent and Consenting First Lien Lenders constituting the Required Lenders under the First Lien Credit Agreement with respect to (A) the entire share capital of Parent (the "**Pointwell Share Capital**"), which has been pledged to (x) the First Lien Lenders pursuant to that certain First Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**First Lien Share Charge**"), between the Lux Borrower and the First Lien Agent and (y) the Second Lien Lenders pursuant to that certain Second Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**Second Lien Share Charge**"), between the Lux Borrower and the Second Lien Agent, and (B) certain intercompany obligations owed to the Lux Borrower by the Parent (the "**Pointwell Intercompany Debt**") which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.

(rr) "**Pledge Enforcement Documents**" means (i) a letter from the required number of First Lien Lenders instructing the First Lien Agent to accelerate and demand repayment of the First Lien Debt and appoint the Receiver; (ii) a letter from the First Lien Agent accelerating and demanding repayment of the First Lien Debt; (iii) the instrument of appointment for the Receiver; (iv) a sale and purchase agreement governing the sale and purchase of the Pointwell Share Capital (governed by Irish law); (v) an assignment agreement of the Pointwell Intercompany

Debt; and (vi) any ancillary documentation that may be necessary or desirable to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and/or Share and Intercompany Debt Transfer, in each case in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

(ss) "**Recognition Proceeding**" means any proceeding commenced in a jurisdiction outside of the United States to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring, including the Canadian Recognition Proceeding.

(tt) "**Reorganized Debtors**" means the Parent and each of the Company Parties as reorganized on the Effective Date in accordance with the Plan.

(uu) "**Reorganized Parent**" means the Parent as reorganized on the Effective Date in accordance with the Plan.

(vv) "**Reorganization Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit D**.

(ww) "**Requisite Creditors**" means the Requisite First Lien Lenders and the Requisite Second Lien Lenders.

(xx) "**Requisite First Lien Lenders**" means, as of the date of determination, Consenting First Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the First Lien Debt then held by all Consenting First Lien Lenders.

(yy) "**Requisite Second Lien Lenders**" means, as of the date of determination, Consenting Second Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the Second Lien Debt then held by all Consenting Second Lien Lenders.

(zz) "**Restructuring Term Sheets**" means, collectively, the Reorganization Term Sheet, the DIP and Exit Facility Term Sheet, the Governance Term Sheet, and the Warrant Term Sheet, as applicable.

(aaa) "**Restructuring Transaction Steps**" means a memorandum of transaction steps (including any schedules and exhibits thereto) in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

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

(ccc) "**Share and Intercompany Debt Transfer**" means the sale or transfer (and any steps taken to effect such sale or transfer) and/or exercise of other rights and remedies by the First Lien Agent of or in relation to the Pointwell Share Capital and the Pointwell Intercompany Debt by the Receiver to Newco Borrower in accordance with the Pledge Enforcement Documents.

(ddd) "**Sponsor**" means Charterhouse Capital Partners LLP and its affiliates (excluding the Company), including CCP IX LP No. 1, CCP IX LP No. 2, and CCP IX Co-Investment LP.

(eee) "**Sponsor Side Agreement**" means an agreement evidencing the Sponsor's and the Evergreen Skills Entities' consent to the Restructuring by and among the Company, the Sponsor, the Evergreen Skills Entities, and the Consenting Creditors party thereto.

(fff) "**Support Effective Date**" means the date on which (i) counterpart signature pages to this Agreement shall have been executed and delivered by (A) the Company and (B) Consenting Creditors (x) holding at least 66⅔% of the aggregate outstanding principal amount of the First Lien Debt and (y) holding at least 66⅔% of the aggregate outstanding principal amount of the Second Lien Debt and (ii) all invoiced and outstanding reasonable and documented fees and expenses (for which invoices have been received by the Company at least one (1) Business Day prior to the date the conditions in subsection (i) are satisfied) of each of the Consenting Creditor Advisors have been paid in full.

(ggg) "**Support Period**" means, with respect to each Party, the period commencing on the Support Effective Date and ending on the earlier of the (i) date on which this Agreement is terminated in accordance with Section 5 hereof with respect to that Party and (ii) the Effective Date.

(hhh) "**Voting Deadline**" means 5:00 p.m. (prevailing Eastern Time) on June 24, 2020 (or such other time as may be mutually agreed by the Company and the Requisite Creditors).

(iii) "**Warrant Agreements**" means warrant agreements evidencing the warrants to be issued on the Effective Date on the terms set forth in the Warrant Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(jjj) "**Warrant Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit F**.

2. **Implementation; Plan of Reorganization; Recognition Proceedings.**

(a) Restructuring Term Sheets. The Restructuring Term Sheets are expressly incorporated herein and made a part of this Agreement. The terms and conditions of the Restructuring are set forth in the Restructuring Term Sheets; *provided, however*, that the Restructuring Term Sheets are supplemented by the terms and conditions of this Agreement. In the event of any inconsistencies between the terms of this Agreement and the Restructuring Term Sheets, the terms of the applicable Restructuring Term Sheet shall govern.

(b) Definitive Documents. Each of the Definitive Documents shall (i) contain terms and conditions consistent in all material respects with this Agreement, the Restructuring Term Sheets, and the Restructuring Transaction Steps and (ii) otherwise (x) except with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the Requisite Creditors and the Company, or (y) with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(c) Milestones. The Company shall use commercially reasonable efforts to comply with each of the following milestones (each, a "**Milestone**" and, collectively,

the "**Milestones**"), as applicable, unless otherwise expressly and mutually agreed in writing among the Company and the Requisite Creditors:

(i) Chapter 11 Cases

(A) Solicitation. At or prior to 11:59 p.m. prevailing Eastern Time on June 14, 2020, the Company shall have commenced the Solicitation in accordance with section 1126(b) of the Bankruptcy Code;

(B) Commencement of the Chapter 11 Cases. Provided that the Support Effective Date has occurred, the Company hereby agrees that, as soon as reasonably practicable, but in no event later than 11:59 p.m. prevailing Eastern Time on June 14, 2020 (the "**Outside Petition Date**") (the date on which such filing actually occurs, the "**Petition Date**"), each of the Parent and the Company Parties shall commence the Chapter 11 Cases;

(C) Filing of the Plan and Disclosure Statement. No later than one (1) Business Day following the Petition Date, the Company shall file the Plan (the votes for which shall have already been solicited), the Disclosure Statement, and a motion seeking preliminary approval of the Disclosure Statement and requesting a combined hearing for approval of the Disclosure Statement and confirmation of the Plan with the Bankruptcy Court (the "**Prepack Scheduling Order**");

(D) DIP Financing and Cash Collateral Motion. No later than one (1) Business Day following the Petition Date, the Company shall file a motion with the Bankruptcy Court seeking interim and final authority to procure the DIP Facility and consensually use cash collateral, each in accordance with the DIP Orders;

(E) Interim DIP Order; Prepack Scheduling Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is three (3) Business Days after the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors) and the Prepack Scheduling Order (in form and substance reasonably acceptable to the Requisite Creditors);

(F) Final DIP Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is twenty-five (25) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order;

(G) Confirmation. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is sixty (60) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Confirmation Order, and, if applicable, an order approving the Disclosure Statement (the date on which the Bankruptcy Court enters the Confirmation Order, the "**Confirmation Date**"); and

(H) Effective Date. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is eighty (80) calendar days after the Petition Date (the "**Outside Date**"), the Effective Date shall have occurred.

(ii) Canadian Recognition Proceeding.

(A) Commencement of the Canadian Recognition Proceeding. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Interim DIP Order and Prepack Scheduling Order, the Canadian Borrower shall commence the Canadian Recognition Proceeding by filing, with the Canadian Court, a petition for the issuance of the Canadian Initial Recognition Order and Canadian Supplemental Order (which latter order shall include, for greater certainty, the Canadian Interim DIP Order), each in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors. The granting of the Canadian Recognition Orders shall be a condition precedent to the effectiveness of the Plan.

(B) Canadian Final DIP Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Final DIP Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court, of the Canadian Final DIP Recognition Order in the Canadian Recognition Proceeding (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(C) Canadian Plan Confirmation Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Confirmation Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court of the Canadian Plan Confirmation Recognition Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(d) Pledge Enforcement. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting Required Lenders as defined under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effectuate the Pledge Enforcement and take such other steps as may be necessary or desirable (including voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and the Share and Intercompany Debt Transfer, including entry into the Pledge Enforcement Documents.

3. **Agreements of the Consenting Creditors.**

(a) Voting; Support. Each Consenting Creditor agrees (on a several and not joint basis) that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall:

(i) timely vote or cause to be voted all of its Claims and Interests, to accept the Plan by delivering or causing to be delivered by its duly authorized, executed, and completed ballot or ballots, and consent to and, if applicable, not opt out of, the releases set forth in the Plan against each Released Party on a timely basis and, in any event, within five (5) Business Days following the commencement of the Solicitation;

(ii) not change or withdraw (or cause or direct to be changed or withdrawn) any such vote or release described in clause (i) or (ii) above; *provided, however*, that notwithstanding anything in this Agreement to the contrary, a Consenting Creditor's vote and release may, upon prior written notice to the Company and the other Parties, be revoked (and, upon such revocation, deemed void ab initio) by any Consenting Creditor at any time following (and solely in the event of) the termination of this Agreement with respect to such Consenting Creditor pursuant to Section 5 hereof;

(iii) timely vote (or cause to be voted) its Claims or Interests against and express opposition to any Alternative Transaction;

(iv) negotiate in good faith with the Company regarding the form and substance of the Definitive Documents and, as applicable, execute the Definitive Documents; *provided, however*, that no Consenting Creditor shall be obligated to agree to any modification of any document that is materially inconsistent with the Restructuring Term Sheets (unless otherwise consented to in accordance with Section 9 hereof);

(v) not directly or indirectly, through any Person (including any administrative agent or collateral agent) seek, solicit, propose, support, assist, engage in negotiations with or participate in the formulation, preparation, filing or prosecution of any Alternative Transaction or object to or take any other action that is inconsistent with or that would reasonably be expected to prevent, interfere with, delay or impede the Solicitation, approval of the Disclosure Statement, or confirmation and consummation of the Plan, any Recognition Proceeding, the Share and Intercompany Debt Transfer, the approval of and entry of the DIP Orders, or the consummation of the Restructuring;

(vi) (A) not direct any administrative agent or collateral agent (as applicable) to take any action inconsistent with such Consenting Creditor's obligations under this Agreement, and (B) if any administrative agent or collateral agent takes any action inconsistent with such Consenting Creditor's obligations under this Agreement, to use commercially reasonable efforts to cause such

administrative agent or collateral agent to cease, withdraw, and refrain from taking any such action; *provided* that each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent vis-à-vis the Company or any of its assets except as set forth in this Agreement;

(vii) support and take all actions necessary or reasonably requested by the Company to facilitate the Restructuring and the Solicitation, approval of and entry of the DIP Orders, confirmation and consummation of the Plan, any Recognition Proceeding, and the Share and Intercompany Debt Transfer within the timeframes contemplated by this Agreement; and

(viii) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring, negotiate in good faith appropriate additional, or alternative provisions to address any such impediment to the extent reasonably requested by the Company; *provided*, for the avoidance of doubt, that no such additional or alternative provisions shall modify any Consenting Creditor's economic treatment as set forth in the Restructuring Term Sheets without such Consenting Creditor's express written consent.

(b) Transfers. Each Consenting Creditor agrees that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall not sell, transfer, loan, issue, pledge, hypothecate, assign, or otherwise dispose of (each, a "**Transfer**"), directly or indirectly, in whole or in part, any of its Claims or Interests or any option thereon (including grant any proxies, deposit any Claims or Interests into a voting trust, or enter into a voting agreement with respect thereto), unless the transferee thereof either (i) is a Consenting Creditor or (ii) prior to such Transfer, agrees in writing for the benefit of the Parties to become a Consenting Creditor and to be bound by all of the terms of this Agreement applicable to Consenting Creditors (including with respect to any and all Claims or Interests it already may hold against or in the Company prior to such Transfer) by executing a joinder agreement, a form of which is annexed hereto as **Exhibit G** (the "**Joinder Agreement**"), and delivering an executed copy thereof within three (3) Business Days following such execution, to Weil, Gotshal & Manges LLP ("**Weil**"), as counsel to the Company, and the Consenting Creditor Counsel, in which event (A) the transferee (including the Consenting Creditor transferee, if applicable) shall be deemed to be a Consenting Creditor hereunder with respect to such transferred Claims or Interest and (B) the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred Claims or Interests. Each Consenting Creditor agrees that any Transfer of any Claims or Interests that does not comply with the terms and procedures set forth herein shall be deemed void ab initio, and the Company and each other Consenting Creditor shall have the right to enforce the voiding of such Transfer. Notwithstanding anything to the contrary herein, a Consenting Creditor may Transfer its Claims or Interests to an entity that is acting in its capacity as a Qualified Marketmaker[1] without the requirement that the Qualified

[1] As used herein, the term "**Qualified Marketmaker**" means an entity that (i) holds itself out to the public or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers Claims against or Interests in the Company (or enter with customers into long and short positions in Claims against or Interests in the Company), in its capacity as a dealer or marketmaker in Claims against or Interests in the

Marketmaker become a Party; *provided, however*, that (i) such Qualified Marketmaker must Transfer such right, title or interest by five (5) Business Days prior to the Voting Deadline and (ii) the transferee of such Company Claims or Interests from the Qualified Marketmaker shall become a Consenting Creditor hereunder and comply in all respects with the terms of this Agreement (including executing and delivering a Joinder) and (iii) notwithstanding anything to the contrary in this Agreement, to the extent that a Consenting Creditor, acting in its capacity as a Qualified Marketmaker, acquires any Company Claims or Interests from a holder of such claims that is not a Consenting Creditor, such Qualified Marketmaker may Transfer such Company Claims or Interests without the requirement that the transferee be or become a Consenting Creditor.

(c) Additional Claims or Interests. To the extent any Consenting Creditor (i) acquires additional Claims or Interests or (ii) Transfers any Claims or Interests, then, in each case, each such Consenting Creditor shall promptly (in no event less than three (3) Business Days following such acquisition or transaction) notify Weil and Consenting Creditor Counsel and each such Consenting Creditor agrees that such additional Claims or Interests shall be subject to this Agreement, and that, for the duration of the Support Period, it shall vote (or cause to be voted) any such additional Claims or Interests entitled to vote on the Plan in a manner consistent with Section 3(a) hereof (and in the event the Solicitation has already commenced and the Voting Deadline has not elapsed, as soon as reasonably practicable following the acquisition of such Claims or Interests but in any event on or prior to the Voting Deadline).

(d) Forbearance. During the Support Period, each Consenting Creditor agrees, to forbear from the exercise of its rights (including any right of set-off) or remedies it may have under any of the Credit Agreements and any agreement contemplated thereby or executed in connection therewith, as applicable, and under applicable U.S. or non-U.S. law or otherwise, in each case, with respect to any breaches, defaults, events of defaults or potential defaults by the Company or any other Credit Party (as defined in the Credit Agreements). Each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent against the Company or any of its assets except as necessary to effectuate the Restructuring (including the Plan, any Recognition Proceeding, the Pledge Enforcement or the Share and Intercompany Debt Transfer). For the avoidance of doubt, nothing in this paragraph (d) shall restrict or limit the Consenting Creditors or either the First Lien Agent or the Second Lien Agent from taking any action permitted or required to be taken hereunder for the purposes of the Plan, any Recognition Proceeding, the Pledge Enforcement (if applicable), or to effectuate the Share and Intercompany Debt Transfer.

4. **Agreements of the Company.**

(a) Covenants. Parent and each Company Party agrees that, for the duration of the Support Period, the Company shall:

(i) use commercially reasonable efforts to (A) pursue and consummate the Restructuring on the terms of, and in compliance with the Milestones set forth in, this Agreement, including by negotiating the Definitive Documents in good faith

Company and (ii) is, in fact, regularly in the business of making a market in claims against or interests in issuers or borrowers (including debt securities or other debt).

and (B) cooperate with the Consenting Creditors to obtain Bankruptcy Court approval of the Definitive Documents, as applicable, and to obtain any other required court or regulatory approvals in connection therewith;

(ii) not take any action, and not encourage any other person or entity to take any action, directly or indirectly that is inconsistent with, or is intended to interfere with the consummation of the Restructuring in accordance with this Agreement, or that would reasonably be expected to interfere with the acceptance or implementation of the Restructuring, this Agreement, or the Plan (except in accordance with clause (vii) below); *provided*, *however*, that the Company shall not be obligated to agree to any modification of any document that is inconsistent with the Restructuring Term Sheets or the Definitive Documents;

(iii) negotiate in good faith and use commercially reasonable efforts to execute and deliver any appropriate additional or alternative agreements to address any legal, financial, or structural impediment to the Restructuring or that are necessary to effectuate the Restructuring;

(iv) use commercially reasonable efforts to obtain those required court, regulatory, and/or third-party approvals required to consummate the Restructuring under applicable U.S. and non-U.S. law or otherwise;

(v) use commercially reasonable efforts to seek additional support for the Restructuring from other material stakeholders to the extent reasonably prudent;

(vi) not seek, solicit, or support any Alternative Transaction; *provided that*, if the Company receives a written or oral proposal or expression of interest regarding any Alternative Transaction, the Company shall notify (email being sufficient) Consenting Creditor Counsel of any such proposal or expression of interest, including the material terms thereof. For the avoidance of doubt, and notwithstanding any provisions to the contrary herein, in order to fulfil the fiduciary obligations of the officers of the Parent or any Company Party, the Company may receive proposals or offers for Alternative Transactions from other parties and provide due diligence and/or analyse and/or, subject to the Requisite Creditors' consent (which consent shall not be unreasonably withheld, conditioned, or delayed), negotiate, such Alternative Transactions without breaching or terminating this Agreement, and may terminate this Agreement in accordance with the terms hereof;

(vii) provide to the Consenting Creditor Counsel draft copies of all Definitive Documents and all material orders, motions or applications related to the Restructuring (including all "first day" and "second day" motions, applications and orders, the Plan, the Disclosure Statement, the Solicitation Materials, and a proposed Confirmation Order) that the Company intends to file with the Bankruptcy Court, in a Recognition Proceeding, or in connection with the Pledge Enforcement at least three (3) Business Days prior to the date when the Company intends to file any such document, motion, application, or proposed form of order

(provided that if delivery of such documents, motions, orders, or applications at least three (3) Business Days in advance is not reasonably practicable prior to filing, such document, motion, order, or application shall be delivered as soon as reasonably practicable prior to filing), and the Company shall consult in good faith with the Consenting Creditor Counsel regarding the form and substance of any such proposed filings;

(viii) subject to applicable professional responsibilities, in connection with the Chapter 11 Cases, any Recognition Proceeding, and the Pledge Enforcement, timely file a written objection to any motion or document filed by a third party seeking the entry of an order (A) directing the appointment of an examiner with expanded powers or a trustee, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, (C) dismissing any of the Chapter 11 Cases, (D) modifying or terminating the Company's exclusive right to file and/or solicit acceptances of a plan of reorganization, (E) enjoining the Pledge Enforcement (if applicable) or the Share and Intercompany Debt Transfer, (F) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or opposing the recognition of any order issued by the Bankruptcy Court, including the DIP Orders and the Confirmation Order, or (G) dismissing any Recognition Proceeding;

(ix) not modify the Plan, in whole or in part, in a manner that is not consistent with this Agreement in all material respects, and not file any motion, pleading, or Definitive Document with the Bankruptcy Court or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with this Agreement;

(x) operate its business in the ordinary course in a manner consistent with past practice in all material respects (other than any changes in operations (A) resulting from or relating to this Agreement or the filing or prosecution of the Chapter 11 Cases or (B) imposed by the Bankruptcy Court;

(xi) promptly provide written notice to the Consenting Creditors and the Consenting Creditor Advisors of (A) the occurrence, or failure to occur, of any event of which the Company has actual knowledge which occurrence or failure would be likely to cause any condition contained in this Agreement not to occur or become impossible to satisfy, (B) the receipt of any written notice from any governmental authority alleging that the consent of such party is or may be required in connection with the transactions contemplated by the Restructuring, or (C) receipt of any written notice of any proceeding commenced or, to the actual knowledge of the Company, threatened against the Company relating to or involving or otherwise affecting in any material respect the transactions contemplated by this Agreement or the Restructuring; and

(xii) not (A) increase the base salary, target bonus opportunity, or other benefits payable by the Company to any senior management employee without the consent of the Requisite Creditors or (B) make any amendment, waiver, supplement

or other modification to any senior management employment agreement or senior management employee retention, severance, incentive, or other compensation plan, agreement or arrangement, or enter into any new senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement or pay any amount contemplated by any currently existing senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement before the date on which such amount becomes due and payable pursuant to the terms of such agreements, arrangements or plans, as applicable, in each case, without the consent of the Requisite Creditors.

(b) Limited Waiver of Automatic Stay. The Company acknowledges and agrees and shall not dispute that, after the commencement of the Chapter 11 Cases, the giving of notice of termination of this Agreement by any Party solely in accordance with the terms of this Agreement shall not be a violation of the automatic stay of section 362 of the Bankruptcy Code or any other stay (and the Company hereby waives, to the fullest extent permitted by law, the applicability of the automatic stay or any other stay to the giving of such notice); *provided, however*, that nothing herein shall prejudice any Party's rights to argue that the giving of any notice of default or termination was not proper under the terms of this Agreement.

5. **Termination of Agreement.**

(a) This Agreement shall terminate three (3) Business Days following the delivery of written notice (in accordance with Section 20 hereof) from: (i) the Requisite First Lien Lenders to Parent and counsel to the Ad Hoc Crossholder Group at any time after the occurrence and during the continuance of any Creditor Termination Event (defined below); (ii) the Requisite Second Lien Lenders to Parent and counsel to the Ad Hoc First Lien Group at any time after the occurrence and during the continuance of any Creditor Termination Event; or (iii) Parent to the Consenting Creditors at any time after the occurrence and during the continuance of any Company Termination Event (defined below). Notwithstanding any provision to the contrary in this Section 5, no Party may exercise any of its respective termination rights as set forth herein if such Party has failed to perform or comply in all material respects with the terms and conditions of this Agreement (unless such failure to perform or comply arises as a result of another Party's actions or inactions in breach of this Agreement), with such failure to perform or comply causing, or resulting in, the occurrence of a Creditor Termination Event or Company Termination Event specified herein. This Agreement shall terminate on the Effective Date without any further required action or notice.

(b) A "Creditor Termination Event" shall mean any of the following:

(i) the breach by the Company of any of the undertakings, representations, warranties, or covenants of the Company set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 (as applicable);

(ii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(iii) the failure of the Company to satisfy any Milestone as and when due;

(iv) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(v) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order;

(vi) the Bankruptcy Court or any other court of competent jurisdiction enters a final order that grants relief terminating, annulling, or materially modifying the automatic stay (as set forth in section 362 of the Bankruptcy Code) or any other stay with regard to any material asset that, to the extent such relief were granted, would have a material adverse effect on the consummation of the Restructuring;

(vii) the Debtors withdraw the Plan or file any plan of reorganization or liquidation or disclosure statement that is inconsistent in any material respect with this Agreement, the Restructuring Term Sheets, or the Plan;

(viii) the Company files any document, motion, application, or adversary proceeding challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Consenting Creditors' Claims;

(ix) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Financing Documents;

(x) the Company files a document, motion, application, or adversary proceeding (or the Company supports any such document, motion, application, or adversary proceeding filed or commenced by any third party) (A) challenging the validity, enforceability, perfection, or priority of, or seeking the avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such

Indebtedness, the Credit Agreements or any Credit Document (as such term is defined in the Credit Agreements) or the prepetition liens securing the Indebtedness or (B) challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such Indebtedness or the prepetition liens securing the Indebtedness;

(xi) the Debtors lose the exclusive right to file a plan or plans of reorganization or to solicit acceptances thereof pursuant to section 1121 of the Bankruptcy Code;

(xii) the commencement of an involuntary case against the Company or the filing of an involuntary petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief in respect of the Company, or its debts, or of a substantial part of its assets, under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof), or if any court grants the relief sought in such involuntary proceeding; or

(xiii) without the prior consent of the Requisite Creditors, the Company (A) voluntarily commences any case or files any petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect except as contemplated by this Agreement (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (C) files an answer admitting the material allegations of a petition filed against it in any such proceeding; or (D) applies for or consents to the appointment of a receiver (other than in furtherance of the Pledge Enforcement and the Share and Intercompany Debt Transfer), administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official, trustee or examiner pursuant to section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases, (E) makes a general assignment or arrangement for the benefit of creditors, or (F) takes any corporate action directly or indirectly authorizing any of the foregoing.

(c) A "Company Termination Event" shall mean any of the following:

(i) the breach by one or more of the Consenting Creditors of any of the undertakings, representations, warranties, or covenants of the Consenting Creditors set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Creditors collectively hold less than 66⅔% of the

aggregate principal amount of each of the First Lien Debt and the Second Lien Debt then outstanding or comprise less than half in number of each of the First Lien Lenders and the Second Lien Lenders;

(ii) the board of directors, managers, members, or partners, as applicable, of Parent or any Company Party hereto reasonably determines in good faith, based upon the advice of counsel, that continued performance under this Agreement would be inconsistent with the exercise of its fiduciary duties under applicable law; *provided, however*, that Parent or such Company Party provides notice of such determination to the Consenting Creditors within five (5) Business Days after the date thereof;

(iii) if, as of 11:59 p.m. prevailing Eastern Time on June 13, 2020, the Support Effective Date has not occurred;

(iv) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(v) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Credit Agreement;

(vi) if counsel to the Ad Hoc First Lien Group and/or counsel to the Ad Hoc Second Lien Group give notice of termination of this Agreement pursuant to this Section 5;

(vii) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(viii) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as "foreign main proceedings" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order; or

(ix) the occurrence of the Outside Date if the Effective Date has not occurred.

Notwithstanding the foregoing, any of the dates or deadlines set forth in Section 5(b) and 5(c) may be extended by the mutual agreement of the Company and the Requisite Creditors.

In addition, notwithstanding anything set forth herein, the Requisite First Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting First Lien Lenders, may terminate this Agreement upon the breach by any Consenting Second Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting Second Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Second Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the Second Lien Debt then outstanding or comprise less than half in number of the Second Lien Lenders; and *provided further* that the Requisite Second Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting Second Lien Lenders, may terminate this Agreement upon the breach by any Consenting First Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting First Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting First Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the First Lien Debt then outstanding or comprise less than half in number of the First Lien Lenders.

(d) Mutual Termination. This Agreement may be terminated by mutual agreement of the Company and the Requisite Creditors upon the receipt of written notice delivered in accordance with Section 20 hereof.

(e) Effect of Termination. Subject to the provisions contained in Section 5(a) and Section 13, upon the termination of this Agreement in accordance with this Section 5, this Agreement shall forthwith become null and void and of no further force or effect and each Party shall, except as provided otherwise in this Agreement, be immediately released from its liabilities, obligations, commitments, undertakings, and agreements under or related to this Agreement and shall have all the rights and remedies that it would have had and shall be entitled to take all actions, whether with respect to the Restructuring or otherwise, that it would have been entitled to take had it not entered into this Agreement, including all rights and remedies available to it under applicable law; *provided, however*, that in no event shall any such termination relieve a Party from liability for its breach or non-performance of any of its obligations hereunder prior to the date of such termination.

(f) If the Restructuring is not consummated, nothing herein shall be construed as a waiver by any Party of any or all of such Party's rights, and the Parties expressly reserve any and all of their respective rights. This Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce the Agreement's terms, and, if applicable, Federal Rule of Evidence 408 and any other applicable rules shall apply.

6. **Definitive Documents; Good Faith Cooperation; Further Assurances.**

Each Party hereby covenants and agrees to cooperate with each other in good faith in connection with, and shall exercise commercially reasonable efforts with respect to the pursuit, approval, negotiation, execution, delivery, implementation, and consummation of, the Plan, any Recognition Proceeding, the Pledge Enforcement, the Share and Intercompany Debt Transfer, and the Restructuring, as well as the negotiation, drafting, execution and delivery of the Definitive Documents. Furthermore, subject to the terms hereof, each of the Parties shall (i) take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, including making and filing any required regulatory filings, and (ii) refrain from taking any action that would frustrate the purposes and intent of this Agreement.

7. **Representations and Warranties.**

(a) Each Party, severally (and not jointly), represents and warrants to the other Parties that the following statements are true, correct, and complete as of the date hereof (or as of the date a Consenting Creditor becomes a party hereto):

(i) such Party is validly existing and in good standing under the laws of its jurisdiction of incorporation or organization, and has all requisite corporate, partnership, limited liability company, or similar authority to enter into this Agreement and carry out the transactions contemplated hereby and perform its obligations contemplated hereunder; and the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized by all necessary corporate, limited liability company, partnership or other similar action on its part;

(ii) the execution, delivery, and performance by such Party of this Agreement does not and will not (A) violate any material provision of law, rule, or regulation applicable to it or any of its subsidiaries or its charter or bylaws (or other similar governing documents) or those of any of its subsidiaries, or (B) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it or any of its subsidiaries is a party except, in the case of the Company, for the filing of the Chapter 11 Cases, the commencement of any Recognition Proceeding, and the consummation of the Pledge Enforcement and Share and Intercompany Debt Transfer;

(iii) the execution, delivery, and performance by such Party of this Agreement does not and will not require any material registration or filing with, consent or approval of, or notice to, or other action, with or by, any federal, state or governmental authority or regulatory body; and

(iv) this Agreement is the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other

similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability or a ruling of the Bankruptcy Court.

(b) Each Consenting Creditor severally (and not jointly) represents and warrants to the other Parties that, as of the date hereof (or as of the date such Consenting Creditor becomes a party hereto), such Consenting Creditor (i) is, or subject to clearance of trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement, was or will be the owner of the aggregate principal amount of Indebtedness and/or Interests set forth below its name on the signature page hereto (or below its name on the signature page of a Joinder Agreement for any Consenting Creditor that becomes a party hereto after the date hereof), free and clear of any restrictions on transfer, liens or options, warrants, purchase rights, contracts, commitments, claims, demands, and other encumbrances and does not own any other Claims or Interests (other than pursuant to any trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement), and/or (ii) has, with respect to the beneficial owners of such Claims or Interests, (A) sole investment or voting discretion with respect thereto, (B) full power and authority to vote on and consent to matters concerning such Claims or Interests to exchange, assign, and transfer such Claims or Interests, and (C) full power and authority to bind or act on the behalf of, such beneficial owners; *provided that* to the extent there are any discrepancies between the amounts set forth on a signature page hereto (or on a signature page to a Joinder Agreement) and the amounts set forth on the official registers maintained by the Agents, such Consenting Creditor and the Company shall work together in good faith to resolve such discrepancies with the Agents and to update, if necessary, the amounts set forth on the underlying signature page at issue.

8. **Disclosure; Publicity.**

The Company shall submit drafts to Consenting Creditor Counsel of any press releases regarding the Restructuring at least one (1) Business Day prior to making any such disclosure. Except as required by applicable law, rule, or regulation and notwithstanding any provision of any other agreement between the Company and such Consenting Creditor to the contrary, no Party or its advisors shall disclose to any Person (including, for the avoidance of doubt, any other Consenting Creditor), other than advisors to the Company and the Consenting Creditor Counsel, the principal amount or percentage of any Indebtedness of or Claims against the Company held by any Consenting Creditor without such Consenting Creditor's prior written consent; *provided, however*, that (a) if such disclosure is required by law, rule, or regulation, the disclosing Party shall, to the extent permitted by law, afford the relevant Consenting Creditor a reasonable opportunity to review and comment in advance of such disclosure and shall take commercially reasonable measures to limit such disclosure (the expense of which, if any, shall be borne by the relevant Consenting Creditor) and (b) the foregoing shall not prohibit the disclosure of the aggregate percentage or aggregate principal amount of Indebtedness collectively held by the Consenting Creditors. Notwithstanding the provisions in this Section 8, any Party may disclose, to the extent consented to in writing by a Consenting Creditor, such Consenting Creditor's individual holdings.

9. **Amendments and Waivers.**

(a) Other than as set forth in Section 9(b), this Agreement, including any exhibits or schedules hereto, may not be waived, modified, amended, or supplemented except with the written consent of the Company and the Requisite Creditors (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party).

(b) Notwithstanding Section 9(a):

(i) any waiver, modification, amendment, or supplement to this Section 9 shall require the written consent of all of the Parties;

(ii) any modification, amendment, or change to the definition of "Requisite Creditors" shall require the written consent of each Consenting Creditor and the Parent;

(iii) any modification, amendment, or change to the definition of "Requisite First Lien Creditors" shall require the written consent of each Consenting First Lien Creditor and the Parent;

(iv) any modification, amendment, or change to the definition of "Requisite Second Lien Creditors" shall require the written consent of each Consenting Second Lien Creditor and the Parent;

(v) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that contemplates a sale of the shares in the Parent, all or substantially all of the assets of the Company or a significant business line of the Company shall require the written consent of each Consenting Creditor; and

(vi) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that treats or affects any Consenting Creditor's Claims arising under the Indebtedness in a manner that is materially and adversely disproportionate, on an economic or non-economic basis, to the manner in which (A) if such Consenting Creditor is a Consenting First Lien Lender, the Consenting First Lien Lenders or (B) if such Consenting Creditor is a Consenting Second Lien Lender, the Consenting Second Lien Lenders, are treated (after taking into account each of the Consenting First Lien Lenders' and Consenting Second Lien Lenders', as applicable, respective holdings in the Company and the recoveries contemplated by the Reorganization Term Sheet (as in effect as of the Support Effective Date)) shall require the written consent of such materially adversely and disproportionately affected Consenting Creditor.

(c) In the event that (x) a Consenting Creditor referred to in Section 9(b)(v) or (y) a materially adversely and disproportionately affected Consenting Creditor referred to in

Section 9(b)(vi) (in each case, a "**Non-Consenting Creditor**") does not consent to a waiver, change, modification, or amendment to this Agreement requiring the consent of such Consenting Creditor, but such waiver, change, modification, or amendment receives the consent of Consenting Creditors owning at least 66⅔% of the outstanding principal amount of First Lien Debt or Second Lien Debt (whichever held by such Non-Consenting Creditor), this Agreement shall be deemed to have been terminated only as to such Non-Consenting Creditor, but this Agreement shall continue in full force and effect in respect to all other Consenting Creditors from time to time without the consent of any Consenting Creditors who have so consented.

10. **Effectiveness.**

This Agreement shall become effective and binding upon each Party upon the execution and delivery by such Party of an executed signature page hereto and shall become effective and binding on all Parties on the Support Effective Date; *provided, however*, that signature pages executed by Consenting Creditors shall be delivered to (i) other Consenting Creditors in a redacted form that removes such Consenting Creditors' account and/or fund name(s), holdings of Claims (including Indebtedness), and holdings of Interests and (ii) the Company, Weil, and Consenting Creditor Counsel in an unredacted form (to be held by Weil and Consenting Creditor Counsel on a professionals'-eyes-only basis).

11. **GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL.**

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

(b) Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any Party shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York (the "**New York Courts**") and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement or the Restructuring. Each of the Parties agrees not to commence any proceeding relating to this Agreement or the Restructuring except in the New York Courts, other than proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any New York Court. Each of the Parties further agrees that notice as provided in Section 20 shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any proceeding arising out of or relating to this Agreement or the Restructuring, (i) any claim that it is not personally subject to the jurisdiction of the New York Courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise) and (iii) that (A) the proceeding in any such court is brought in an inconvenient forum, (B) the venue of such proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Notwithstanding the foregoing, during the pendency of the Chapter 11 Cases, all proceedings contemplated by this Section 11(b) shall be brought in the Bankruptcy Court.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12. **Specific Performance/Remedies.**

It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief (including reasonable attorneys' fees and costs) as a remedy of any such breach, without the necessity of proving the inadequacy of money damages as a remedy, including an order of the Bankruptcy Court requiring any Party to comply promptly with any of its obligations hereunder. Each Party also agrees that it will not seek, and will waive any requirement for, the securing or posting of a bond in connection with any Party seeking or obtaining such relief.

13. **Survival.**

Notwithstanding the termination of this Agreement pursuant to Section 5 hereof, the agreements and obligations of the Parties in this Section 13 and Sections 5(e), 5(f), 8, 11, 12, 14, 15, 16, 17, 18, 19, 20, and 21 hereof (and any defined terms used in any such Sections) shall survive such termination and shall continue in full force and effect in accordance with the terms hereof; *provided, however*, that any liability of a Party for breach of the terms of this Agreement shall survive such termination.

14. **Headings.**

The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof or, for any purpose, be deemed a part of this Agreement.

15. **Successors and Assigns; Severability; Several Obligations.**

This Agreement is intended to bind and inure to the benefit of the Parties and their respective successors and permitted assigns; *provided, however*, that nothing contained in this Section 15 shall be deemed to permit Transfers of the Claims or Interests other than in accordance with the express terms of this Agreement. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, shall be held invalid or unenforceable in

whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision hereof and this Agreement shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible. The agreements, representations, and obligations of the Parties are, in all respects, ratable and several and neither joint nor joint and several.

16. **No Third-Party Beneficiaries.**

Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties (and their permitted successors and assigns) and no other Person shall be a third-party beneficiary hereof.

17. **Prior Negotiations; Entire Agreement.**

This Agreement, including the exhibits and schedules hereto (including the Restructuring Term Sheets), constitutes the entire agreement of the Parties and supersedes all other prior negotiations with respect to the subject matter hereof and thereof.

18. **Confidential Information.**

Any obligations the Company may have under or in connection with this Agreement to furnish Confidential Information to a Consenting Creditor shall be subject to such Consenting Creditor executing a confidentiality agreement with the Company in form and substance reasonably acceptable to the Company.

19. **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same agreement. Execution copies of this Agreement may be delivered by electronic mail, or otherwise, which shall be deemed to be an original for the purposes of this paragraph.

20. **Notices.**

All notices hereunder shall be deemed given if in writing and delivered, if contemporaneously sent by electronic mail, courier, or by registered or certified mail (return receipt requested) to the following addresses:

(1) If to the Company, to:

Pointwell Limited
2nd Floor 1-2 Victoria Buildings
Haddington Road, Dublin 4, Ireland D04XN32
Attention: Greg Porto
(Greg.Porto@skillsoft.com)

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Gary Holtzer, Esq.
(Gary.Holtzer@weil.com)
Andrew Wilkinson, Esq.
(Andrew.Wilkinson@weil.com)
Robert Lemons, Esq.
(robert.lemons@weil.com)
Katherine T. Lewis, Esq.
(katherine.lewis@weil.com)

(2) If to a member of the Ad Hoc First Lien Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Gibson Dunn & Crutcher LLP
1285 6th Avenue
New York, NY 10019

Attention: Scott J. Greenberg, Esq.
(sgreenberg@gibsondunn.com)
Steven A. Domanowski, Esq.
(sdomanowski@gibsondunn.com)
Matthew J. Williams, Esq.
(mjwilliams@gibsondunn.com)
Christina M. Brown, Esq.
(christina.brown@gibsondunn.com)

(3) If to a member of the Ad Hoc Crossholder Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Milbank LLP
55 Hudson Yards
New York, NY 10001

Attention: Evan Fleck
(efleck@milbank.com)
Yushan Ng
(yng@milbank.com)
Sarah Levin
(slevin@milbank.com)
Benjamin Schak
(bschak@milbank.com)

Any notice, consent, or authorization under this Agreement may be delivered by electronic mail (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party). Any notice given by delivery, mail, or courier shall be effective when received. Any notice given by electronic mail shall be effective upon oral, machine, or electronic mail (as applicable) confirmation of transmission.

21. **No Solicitation; Representation by Counsel; Adequate Information.**

(a) This Agreement is not and shall not be deemed to be a solicitation of an offer to buy securities or a solicitation for votes in favor of the Plan in the Chapter 11 Cases. The acceptances of the Consenting Creditors with respect to the Plan will not be solicited until such Consenting Creditor has received the Disclosure Statement and, as applicable, related ballots and other Solicitation Materials. In addition, this Agreement does not constitute an offer to issue or sell securities to any Person or the solicitation of an offer to acquire or buy securities in any jurisdiction where such offer or solicitation would be unlawful.

(b) Each Party acknowledges that it has had an opportunity to receive information from the Company and that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law, or order, or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived.

(c) Each Consenting Creditor acknowledges, agrees, and represents to the other Parties that it (i) is an "accredited investor" as such term is defined in Rule 501 of Regulation D of the Securities Act, (ii) is a "qualified institutional buyer" as such term is defined in Rule 144A under the Securities Act or an institutional "Accredited Investor" as defined in Rule 501(a)(1), (2),

(3), (7), or (8) under the Securities Act, (iii) understands that if it is to acquire any securities, as defined in the Securities Act, pursuant to the Restructuring, such securities have not been and will not be registered under the Securities Act and that such securities are, to the extent not offered, solicited, or acquired pursuant to section 1145 of the Bankruptcy Code, being offered and sold pursuant to an exemption from registration contained in the Securities Act, based in part upon such Consenting Creditor's representations contained in this Agreement and cannot be sold unless subsequently registered under the Securities Act or an exemption from registration is available, and (iv) has such knowledge and experience in financial and business matters that such Consenting Creditor, as applicable, is capable of evaluating the merits and risks of the securities to be acquired by it (if any) pursuant to the Restructuring and understands and is able to bear any economic risks with such investment.

22. **Miscellaneous.**

When a reference is made in this Agreement to a Section, Exhibit, or Schedule, such reference shall be to a Section, Exhibit, or Schedule, respectively, of or attached to this Agreement unless otherwise indicated. Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively, (ii) the terms "hereof," "herein," "hereby," and derivative or similar words refer to this entire Agreement, (iii) the words "include," "includes," and "including" when used herein shall be deemed in each case to be followed by the words "without limitation," (iv) the word "or" shall not be exclusive and shall be read to mean "and/or" and (v) unless the context otherwise requires, the word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if".

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective duly authorized officers, solely in their respective capacity as officers of the undersigned and not in any other capacity, as of the date first set forth above.

PARENT:

POINTWELL LIMITED

By: _____

Name: Ronald Hovsepian
Title: Director

COMPANY PARTIES:

SSI INVESTMENTS I LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS II LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS III LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT IRELAND LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

THIRDFORCE GROUP LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS IRELAND LEARNING LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

CYBERSHIFT HOLDINGS, INC.

By: _____

Name: Greg Porto
Title: Director

CYBERSHIFT, INC.

By: _____

Name: Greg Porto
Title: Director

SKILLSOFT U.K. LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

SKILLSOFT CANADA, LTD.

By: _____

Name: Bobb Jenkins
Title: Director

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

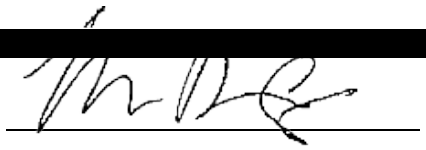
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: DocuSigned by: Eric Larsson 97CBAED964A54A3...
(for Alcentra Limited as investment manager)

Name: Eric Larsson

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

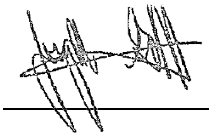
Notice Address: Alcentra Limited, 160 Queen Victoria Street, London EC4V 4LA

Fax: _____
Attention: Amos Ouattara / Christopher Schubert___
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

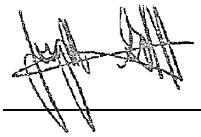
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

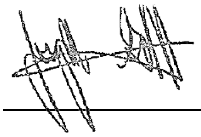
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

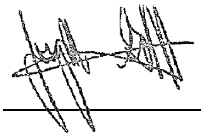
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

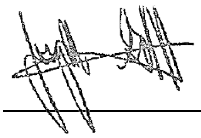
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

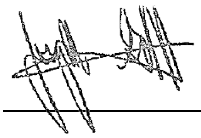
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

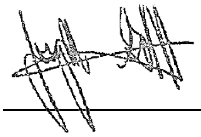
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

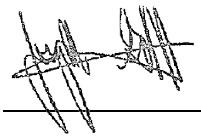
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

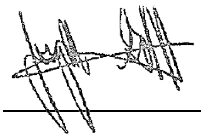
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo TRF MP Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

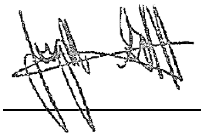
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its portfolio manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

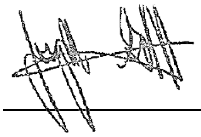
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC, Management Series 2,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

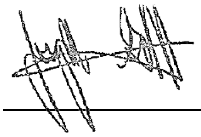
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

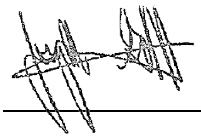
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

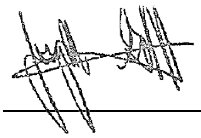
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

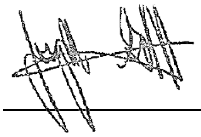
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

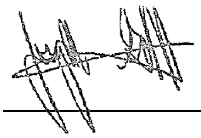
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its asset manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

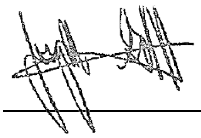
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

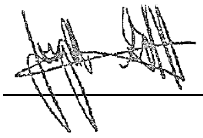
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

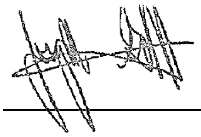
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

Benefit Street Partners LLC, on behalf of certain managed funds and accounts

By: 

Name: Alex McMillan

Title: Chief Compliance Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $0

Principal Amount of the Second Lien Debt: $0

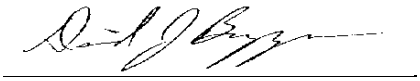
Interests (please describe): n/a

Notice Address:
9 W 57th St, Suite 4920
New York, NY 10019

Fax: n/a
Attention: Alex McMillan
Email: a.mcmillan@benefitstreetpartners.com and j.rodbard@benefitstreetpartners.com

CONSENTING CREDITOR

DDJ Capital Management, LLC,
in its capacity on behalf of the
Consenting Creditors that it manages and/or advises

By: 

Name: David J. Breazzano

Title: President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

DDJ Capital Management, LLC
130 Turner Street
Building #3, Suite 600
Waltham, MA 02453

Fax: (781) 419-9189
Attention: Legal Department
Email: legal@ddjcap.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Sub-Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Calvert Research and Management

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
As Investment Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: _____

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

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Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

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Notice Address:

2 International Place
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Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
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Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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CONSENTING CREDITOR

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By: PGIM, Inc., as Collateral Manager

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Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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By: _____

Name: Ian Johnston

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Fax: (973) 367-8047
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[redacted]

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By: _____

Name: Ian Johnston

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Principal Amount of the First Lien Term Loans: [redacted]

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Notice Address:
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[redacted]

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By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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Notice Address:
655 Broad Street, 7th Floor
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CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

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Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
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Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
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CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

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[redacted]
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By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

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Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

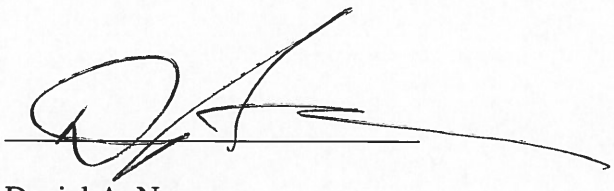
Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

VOYA INVESTMENT MANAGEMENT CO. LLC
on its own behalf and, as applicable, on behalf of its affiliates and managed or sub-advised funds and accounts

By: 

Name: Daniel A. Norman

Title: Senior Managing Director

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $n/a

Principal Amount of the Second Lien Debt: $n/a

Interests (please describe): n/a

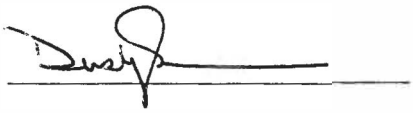
Notice Address:

Voya Investment Management
7337 East Doubletree Ranch Road
Scottsdale, Arizona, USA 85258

Fax: (480) 477-2607
Attention: Jake Jamison, Vice President for Legal Affairs
Email: jake.jamison@voya.com

CONSENTING CREDITOR

Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolvi[redacted]

Principal Amount of the Second Lien Debt[redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Kapitalforeningen Investin Pro - Lodbrok Select Opportunities

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loan [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

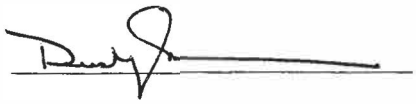
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok European Credit Opportunities Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Funding Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Deb [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

MAP 512 Sub Trust of LMA Ireland

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Lo[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Mercer QIF Fund PLC - Mercer Investment Fund 1

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

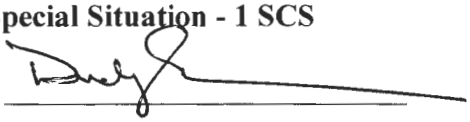
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 1 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loa[redacted]

Principal Amount of the Second Lien Debt: [redacted]

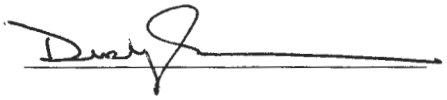
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 2 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 3 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

CRF2 SA

By: _____

Name: Quentin Leveque

Title: Director

By: _____

Name: Besar Muhameti

Title: Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien De [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EMPIRE CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EAD CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

CRF3 Investments I S.à r.l.

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving L[redacted]

Principal Amount of the Second Lien Debt: $ [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

NORTH HAVEN CREDIT PARTNERS II L.P.
By: MS Credit Partners II GP L.P., its general partner
By: MS Credit Partners II GP Inc., its general partner

By: 

Name: Ashwin Krishnan

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +1 212 507 4216
Attention: Ashwin Krishnan
Email: Ashwin.krishnan@morganstanley.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI GLOBAL ASSET ALLOCATION PRIVATE POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH YIELD BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE GLOBAL INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI U.S. INCOME US$ POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SENTRY GLOBAL HIGH YIELD FIXED INCOME PRIVATE TRUST

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE FLOATING RATE INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE CORPORATE BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CANADIAN FIXED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

EXHIBIT A

AD HOC CROSSHOLDER GROUP

1. Lodbrok European Credit Opportunities Sàrl
2. Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio
3. Kapitalforeningen Investin Pro - Lodbrok Select Opportunities
4. MAP 512 Sub Trust of LMA Ireland
5. Mercer QIF Fund PLC - Mercer Investment Fund 1
6. Lodbrok Special Situation - 1 SCS
7. Lodbrok Special Situation - 2 SCS
8. Lodbrok Special Situation - 3 SCS
9. Lodbrok Funding Sàrl
10. CRF2 SA
11. CRF3 Investments I S.à r.l.
12. EAD CREDIT INVESTMENTS I SARL
13. EMPIRE CREDIT INVESTMENTS I SARL
14. Enhanced Income Corporate Class
15. Enhanced Income Pool
16. Canadian Fixed Income Pool
17. Signature Corporate Bond Fund
18. Signature Floating Rate Income Pool
19. Signature High Income Fund
20. Signature Income & Growth Fund
21. Sentry Global High Yield Fixed Income Private Trust
22. CI US Income $US Pool
23. Signature Diversified Yield Corporate Class
24. Signature Global Income & Growth Fund
25. Signature High Yield Bond Fund
26. CI Global Asset Allocation Private Pool
27. CI Income Fund
28. Signature Diversified Yield Fund
29. NORTH HAVEN CREDIT PARTNERS II L.P.

EXHIBIT B

AD HOC FIRST LIEN GROUP

EXHIBIT C

DIP AND EXIT FACILITY TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for DIP and Exit Financing Facilities
Summary of Terms and Conditions

June 12, 2020

This DIP and Exit Facility Term Sheet[1] sets forth the principal terms of the DIP Facility and the Exit Credit Facility.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Company Parties set forth on Schedule 1 to the Reorganization Term Sheet.

Without limiting the generality of the foregoing, this DIP and Exit Facility Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This DIP and Exit Facility Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this DIP and Exit Facility Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this DIP and Exit Facility Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS DIP AND EXIT FACILITY TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Summary	▪ $50,000,000 delayed draw term loan facility to be funded in escrow (subject to withdrawal conditions described below) ► Backstopped by certain members of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (collectively, the "**DIP Backstop Parties**"); provided that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group ► After the funding date, the DIP Facility will by syndicated to all First Lien Lenders on a pro rata basis ▪ "**Borrower**" to be Skillsoft Corporation ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the First Lien Credit Agreement, provided that the Evergreen Skills Entities shall not be Credit Parties	▪ $90,000,000 super senior term loan facility under Exit Credit Agreement ► $50,000,000 rolled from DIP Facility ▪ "**Borrowers**" to be Newco Borrower, Skillsoft Corporation and such other Credit Parties to be agreed ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the DIP Facility, plus Newco Borrower and Newco Parent and any additional foreign entities required pursuant to the terms of the Exit Credit Agreement ▪ Backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**"); provided, that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group	▪ $410,000,000 first lien, second-out term loan facility under Exit Credit Agreement ▪ Borrowers, Credit Parties and Administrative Agent to be the same as those under the New First Out Term Loan Facility
Maturity	▪ Earlier of (i) 3 months after the Petition Date, subject to one 1-month extension at the sole discretion of DIP Lenders holding, as of the date of determination, at least a majority of the aggregate principal amount of loans outstanding under the DIP Facility (the "**Requisite DIP Lenders**"), (ii) conversion or dismissal of the Chapter 11 Cases, (iii) acceleration, (iv) sale of all or substantially all assets and (v) the Effective Date	▪ Earlier of (i) December 2024 and (ii) acceleration	▪ Earlier of (i) April 2025 and (ii) acceleration
Carve-Out	▪ Usual and customary professional fee carve-out for DIP facilities of this type to be mutually agreed (the "**Carve-Out**")	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Availability	▪ $25,000,000 available upon entry of the Interim DIP Order ("**Initial Availability**") ▪ Remaining $25,000,000 available upon entry of Final Order ("**Additional Availability**")	▪ n.a.	▪ n.a.
Use of Proceeds	▪ Working capital, general corporate purposes and chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, and providing adequate protection in each case solely in accordance with a budget in form and substance acceptable to the DIP Lenders (the "**DIP Budget**")	▪ Working capital, general corporate purposes, any DIP Facility paydown and chapter 11 emergence costs	▪ n.a.
Security & Ranking	As set forth in the Bankruptcy Code, and subject to the Carve-Out, the DIP Facility shall be entitled to: ▪ Priming, perfected first priority DIP liens on all Collateral of the Debtors (as defined in the First Lien Credit Agreement) securing the First Lien Debt ▪ Perfected first priority DIP liens on all property of the Debtors not subject to valid, perfected and non-avoidable liens as of the commencement of the Chapter 11 Cases and the proceeds thereof ▪ Perfected junior DIP liens on all property of the Debtors that is subject to valid, perfected and non-avoidable liens in existence at the time of the commencement of the Chapter 11 Cases or to valid and non-avoidable liens in existence at the time of such commencement (other than liens securing the First Lien Debt) ▪ Super-priority, administrative claim status	▪ Perfected first priority liens on all Collateral (as defined in the First Lien Credit Agreement) ▪ Perfected first priority liens on all assets of the Credit Parties, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Perfected first priority liens on 100% of equity in/assets of foreign subsidiaries, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Other standard and customary assets to be included in collateral package	▪ Same collateral package as the New First Out Term Loan Facility (such collateral package, the "**Exit Facility Collateral**") ▪ The New Second Out Term Loans shall be junior in all respects to the New First Out Term Loans with respect to the Exit Facility Collateral; provided that both the New First Out Term Loan Facility and the New Second Out Term Loan Facility shall be secured by a first lien on the Exit Facility Collateral
Economics	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Commitment payment: 300 bps earned and payable in cash to all DIP Lenders on the funding date	▪ Commitment payment: (i) with respect to the new money portion of the Exit Credit Facility, 300 bps payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) and (ii) with respect to the rolled portion of the Exit Credit Facility, 200 bps earned and payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) on the funding date to occur on the Effective Date	▪ n.a.
	▪ Seasoning/fronting fees to be paid by the Company	▪ Seasoning/fronting fees to be paid by the Company	▪ n.a.
	▪ Backstop payment: 250 bps earned and payable in cash to the DIP Backstop Parties on the funding date	▪ Backstop payment: (i) with respect to the new money portion of the Exit Credit Facility, 250 bps earned and payable in cash to the Exit Backstop Parties and (ii) with respect to the rolled portion of the Exit Credit Facility, 150 bps earned and payable in cash to the Exit Backstop Parties on the funding date to occur on the Effective Date	▪ n.a.
Amortization	▪ n.a.	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022
Documentation	▪ The definitive documentation for the DIP Facility (the "**DIP Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ The definitive documentation for the Exit Credit Facility (the "**Exit Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Reporting	▪ Usual and customary for facilities of this type and subject to the Documentation Principles ▪ Bi-Weekly cash flow reporting, including Bi-weekly variance reporting in the same format as the DIP Budget with written discussion of variances (including but not limited to whether variances are temporary or permanent)	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, and shall include: ► Annual budget ► Monthly reporting ► Quarterly and annual financials	▪ Same as New First Out Term Loan Facility
Withdrawal	Conditions to a withdrawal shall include: ▪ Bringdown of representations and warranties in all material respects ▪ No Default or Event of Default under the DIP Credit Agreement ▪ Customary representation related to effectiveness of DIP Order ▪ The RSA shall be in full force and effect ▪ Cap on availability until entry of Final Order ▪ Compliance with DIP Budget (subject to permitted variance) ▪ Delivery of Withdrawal Notice ▪ Satisfaction of Financial Covenants	▪ n/a	▪ n/a
Mandatory Prepayments	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ No ECF sweep ▪ Other mandatory prepayments usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Financial Covenants	▪ Receipts and Disbursements Variance Test with a 15% cushion on a cumulative basis (disbursements to exclude professional fees), tested bi-weekly on a rolling 4-week basis commencing on the third week after the Petition Date ▪ Minimum liquidity (to be defined as mutually agreed) in an amount to be agreed	▪ Maximum leverage ▪ First test on January 31, 2022, quarterly testing thereafter ▪ Initial 6.00x covenant level with 0.5x step downs semi-annually until 4.50x after which the leverage covenant will remain flat	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Cap on cash maintained by non-Credit Parties and/or non-Debtors in an amount to be agreed	▪ EBITDA definition to exclude "pro forma" and similar add-backs except for cost savings programs already initiated (capped at 25% of Cash EBITDA) and restructuring costs related to the Restructuring	
Affirmative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Negative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Adequate Protection	▪ Adequate protection liens on all DIP Collateral (including avoidance action proceeds) ▪ Adequate protection 507(b) super priority claim ▪ Current cash payment of reasonable and documented professional fees and expenses for the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ All information and reporting rights set forth in the DIP Facility	▪ n.a.	▪ n.a.
Events of Default	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Milestones	▪ Entry of Disclosure Statement and Plan (T+1 Business Day) ▪ Entry of Interim DIP Order (T+3 Business Days) ▪ Entry of Final DIP Order (T+25 Calendar Days) ▪ Entry of Confirmation Order (T+60 Calendar Days) ▪ Effective Date (T+80 Calendar Days) ▪ Canadian Borrower commences Canadian Recognition Proceeding (4 Business Days	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	following entry of Interim DIP Order and Prepack Scheduling Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Final DIP Recognition Order (4 Business Days following the entry of the Final DIP Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Plan Confirmation Recognition Order (4 Business Days following the entry of the Confirmation Order)		
Conditions Precedent	Usual and customary for DIP facilities of this type and subject to the Documentation Principles, including without limitation: ▪ Delivery of acceptable DIP Budget ▪ Payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ Entry of Interim DIP Order followed by entry of Final Order ▪ Execution of DIP Credit Agreement and other DIP Documents	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, including, payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Consent to Use Cash Collateral	▪ Prepetition First Lien Agent, Prepetition First Lien Lenders party to the RSA, Prepetition Second Lien Agent and Prepetition Second Lien Lenders party to the RSA shall consent to Debtors' use of all cash as cash collateral in accordance with use of proceeds and Approved DIP Budget	▪ n.a.	▪ n.a.
Tax	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Other Terms & Conditions	▪ Existing AR Facility to remain in place on terms and conditions to be mutually agreed	▪ Commercially reasonable efforts to obtain credit rating from both Moody's and S&P (i) prior to the Effective Date and (ii) if not	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Waiver of section 506(c), section 552(b) equity of the cases exception and marshalling, subject to entry of a final DIP order ▪ Prior to the earlier to occur of (i) 30 days after the Petition Date and (ii) the entry of the Final DIP Order, the Company to use commercially reasonable efforts to obtain private credit ratings of the DIP Facility from both Moody's and S&P ▪ Upon Event of Default of the DIP Facility, Requisite DIP Lenders may direct the Administrative Agent to exercise remedies	obtained prior to the Effective Date, within 30 days post-close ▪ AR Facility in place on terms and conditions acceptable to Exit Facility Lenders	

EXHIBIT D

REORGANIZATION TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for Reorganization Transaction
Summary of Terms and Conditions

June 12, 2020

This Reorganization Term Sheet[1] sets forth the principal terms of the Restructuring and certain related transactions concerning the Company.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Parent and Company Parties set forth on Schedule 1 (each, a "**Debtor**" and, collectively, the "**Debtors**").

Without limiting the generality of the foregoing, this Reorganization Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This Reorganization Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this Reorganization Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this Reorganization Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated, and such evaluation may affect the terms and structure of the Restructuring. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS REORGANIZATION TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

Summary of Prepetition Obligations and Interests	
First Lien Revolving Credit Facility	"**First Lien Revolving Credit Facility**" means the revolving credit facility provided under the First Lien Credit Agreement. As of April 30, 2020, the principal obligations outstanding under the First Lien Revolving Credit Facility (collectively, the "**First Lien Revolving Credit Debt**") totaled approximately $80 million. "**First Lien Revolving Credit Claims**" means all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Revolving Credit Facility as of the Petition Date.
First Lien Term Loan Facility	"**First Lien Term Loan Facility**" means the term loan facility provided under the First Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the First Lien Term Loan Facility totaled approximately $1,290 million (collectively, the "**First Lien Term Loan Debt**" and, together with the First Lien Revolving Credit Debt, the "**First Lien Debt**"). "**First Lien Term Loan Claims**" (together with the First Lien Revolving Credit Claims, the "**First Lien Debt Claims**") shall refer to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Term Loan Facility as of the Petition Date.
Second Lien Term Loan Facility	"**Second Lien Term Loan Facility**" means the term loan facility provided under the Second Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Second Lien Term Loan Facility totaled approximately $670 million (collectively, the "**Second Lien Debt**"). "**Second Lien Debt Claims**" refers to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the Second Lien Term Loan Facility as of the Petition Date.
Existing AR Facility	"**Existing AR Facility**" means the senior secured credit facility comprised of a $75 million Class A revolving line of credit (the "**Class A Tranche**") and a $15 million Class B revolving line credit (the "**Class B Tranche**") provided under the Existing AR Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Class A Tranche totaled approximately $63.1 million and the principal obligations outstanding under the Class B Tranche totaled approximately $14.62 million.
General Unsecured Claims	"**General Unsecured Claims**" means any prepetition, general unsecured claim against one or more Debtors, *excluding* claims held by one or more Debtors, claims held by one or more non-Debtor affiliates of Parent (including claims held by the Evergreen Skills Entities (defined below) and/or the Sponsor or its affiliates), the First Lien Debt Claims, and the Second Lien Debt Claims.
Intercompany Claims	"**Intercompany Claims**" means any prepetition claim against one or more Debtors held by another Debtor or by a non-Debtor affiliate of Parent, including any claims held by Holdings, the Lux Borrower, Evergreen Skills Holding Lux, or Evergreen Skills Top Holding Lux (the preceding four entities, the "**Evergreen Skills Entities**"), other than the Pointwell Intercompany Debt (defined below).

Summary of Prepetition Obligations and Interests	
Pointwell Intercompany Debt	"**Pointwell Intercompany Debt**" means certain intercompany obligations owed to the Lux Borrower by the Parent which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.
Intercompany Interests	"**Intercompany Interests**" means any prepetition Interest in a Debtor held by another Debtor or non-Debtor affiliate of Parent (excluding the Evergreen Skills Entities and the Sponsor).
Existing Parent Equity Interests	"**Existing Parent Equity Interests**" means the equity securities of Parent, consisting of any common stock, preferred stock, warrants, or other ownership interest of or in Parent, including those interests held directly or indirectly by the Evergreen Skills Entities or the Sponsor.
Subordinated Claims	"**Subordinated Claims**" means any claim subject to subordination under section 510(b) of the Bankruptcy Code, including without limitation all accrued and unpaid management fees and other amounts owed to the Sponsor.
Overview of the Restructuring	
Implementation of the Restructuring	The Restructuring shall be implemented with the support of the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group, the Evergreen Skills Entities, and the Sponsor through the Chapter 11 Cases pursuant to the Plan. Each of the Parent and the Company Parties shall commence the Chapter 11 Cases and shall use commercially reasonable efforts to confirm and consummate the Plan, which shall be consistent in all material respects with this Reorganization Term Sheet and the Restructuring Support Agreement and/or otherwise in form and substance reasonably acceptable to the Company and the Requisite Creditors. The Plan will provide creditors with the distributions reflected below. The Canadian Borrower shall commence the Canadian Recognition Proceeding seeking an order or orders recognizing the Chapter 11 Cases as a "foreign main proceeding" and granting related relief, including, without limitation, recognizing and giving full force and effect to the orders of the Bankruptcy Court approving the DIP Facility and confirming the Plan (such order of the Canadian Court recognizing the Bankruptcy Court order confirming the Plan, the "**Canadian Plan Confirmation Recognition Order**"). The granting of the Canadian Plan Confirmation Recognition Order shall be a condition precedent to the effectiveness of the Plan. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting the Required Lenders under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effect the Pledge Enforcement and take such other steps as may be necessary or desirable (including, but not limited to, voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement, including entry into Pledge Enforcement Documents.

Summary of Prepetition Obligations and Interests	
Consideration for Distribution	The aggregate consideration that will be distributed pursuant to the Plan on the Effective Date will include, as and to the extent applicable: (i) the New Second Out Term Loan Facility (defined below); (ii) the Newco Equity (defined below); and (iii) the Warrants (defined below).
DIP Facility; Use of Cash Collateral	The Restructuring will be financed by (i) the consensual use of cash collateral and (ii) an up to $50 million DIP Facility to be provided by the DIP Lenders, subject to the terms and conditions set forth in the DIP and Exit Facility Term Sheet. Subject to the terms of the DIP and Exit Facility Term Sheet, the DIP Facility shall be used to fund (i) the operations of the Debtors, as debtors and debtors in possession in the Chapter 11 Cases, including the Debtors' working capital and general corporate purposes, as well as the payment of professional fees and expenses and required fees and debt service on the DIP Facility, and (ii) the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital with proceeds from the DIP Facility.
New First Out Term Loan Facility	"**New First Out Term Loan Facility**" means a new "first out" term loan facility (the loans thereunder, the "**New First Out Term Loans**") in an aggregate principal amount not to exceed (i) the aggregate principal amount outstanding under the DIP Facility as of [ten] days prior to the Effective Date (the "**Converted DIP Facility Loans**") (which Converted DIP Facility Loans shall be converted into New First Out Term Loans) and (ii) a cash amount equal to $90 million less the Converted DIP Facility Loans (collectively, the "**New First Out Term Loan Amount**" and the commitment to provide such amount, the "**New First Out Term Loan Commitment**"). The New First Out Term Loan Facility shall be made available to all holders of First Lien Debt Claims in accordance with the DIP and Exit Facility Term Sheet; *provided that* the New First Out Term Loan Facility shall be backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**") (it being understood and agreed that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by all members of each such group). The New First Out Term Loan Facility shall be documented in a credit agreement which shall be in form and substance consistent with the terms and conditions set forth in the DIP and Exit Facility Term Sheet. The New First Out Term Loan Facility shall be senior in respect of payment to the New Second Out Term Loan Facility (defined below).
New Second Out Term Loan Facility	"**New Second Out Term Loan Facility**" means a new "second out" term loan facility (the loans thereunder, the "**New Second Out Term Loans**") in an aggregate principal amount of $410 million (the "**New Second Out Term Loan Amount**") that shall be documented in the Exit Credit Agreement. All claims and liens pursuant to the New Second Out Term Loan Facility shall be junior in all respects to the claims and liens pursuant to the New First Out Term Loan Facility; provided, that the New First Out Term Loan Facility and New Second Out Term Loan Facility shall be secured by a first lien on substantially all of the assets of the Credit Parties (as defined in the DIP and Exit Facility Term Sheet).
Exit AR Facility	"**Exit AR Facility**" means an accounts receivables facility in a principal amount up to $75 million to be provided under the Exit AR Credit Agreement.

Summary of Prepetition Obligations and Interests	
	The Exit AR Facility shall be secured on the same basis as the Existing AR Facility. The terms of the Exit AR Credit Agreement shall be materially consistent with the Existing AR Credit Agreement (provided that the provisions related to Class B Loans (as defined in the Existing AR Credit Agreement) may be modified to remove the Class B Tranche or replace the Class B Lender (as defined in the Existing AR Credit Agreement)) and otherwise be reasonably acceptable to the Company and the Requisite Creditors. The Exit AR Facility shall mature December 2024 or later.
Newco Equity	"**Newco Equity**" has the meaning ascribed to it in the Restructuring Support Agreement.
Tranche A Warrants	"**Tranche A Warrants**" means warrants representing the right to acquire 5.0% of the Newco Equity issued and outstanding immediately as of the Effective Date, subject to dilution by the Incentive Plans (defined below), which shall be documented pursuant to a "**Warrant Agreement**," which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Tranche B Warrants	"**Tranche B Warrants**" (together with the Tranche B Warrants, the "**Warrants**") means warrants representing the right to acquire 10.0% of the Newco Equity issued and outstanding as of the Effective Date, subject to dilution by the Incentive Plans, which shall be documented under the Warrant Agreement, which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Classification and Treatment of Claims and Interests	
Administrative Expense Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all administrative, priority, and priority tax claims (excluding DIP Facility Claims and Professional Fee Claims) (collectively, the "**Administrative Expense Claims**") shall be paid in full in cash.
Professional Fee Claims Unimpaired; Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all holders of claims against a Debtor for professional services rendered or costs incurred on or after the Petition Date and through and including the Effective Date by professional persons retained by the Debtors or any statutory committee appointed in the Chapter 11 Cases pursuant to sections 327, 328, 329, 330, 331, 363, or 1103 of the Bankruptcy Code in the Chapter 11 Cases (the "**Professional Fee Claims**") shall receive, in full and final satisfaction, release, and discharge of such claim, cash in an amount equal to the allowed amount of such Professional Fee Claim.
DIP Facility Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, the principal amount outstanding of loans extended under the DIP Facility shall be (i) converted on a dollar-for-dollar basis to New First Out Term Loans or (ii) repaid in full in cash (provided that the New First Out Term Loan Commitment is met in full). Accrued interest and other obligations under the DIP Facility will be paid in full in cash on the Effective Date.
First Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such First Lien Debt Claims, the holders of First Lien Debt Claims (or the permitted assigns and designees of such holders) shall receive their pro rata share of: (i) New Second Out Term Loans in an amount equal to the New Second Out Term Loan Amount; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans),

Summary of Prepetition Obligations and Interests	
	in each case based on the amount of First Lien Debt Claims as of the Petition Date.
Second Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such Second Lien Debt Claims, the holders of Second Lien Debt Claims shall receive their pro rata share of : (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants, in each case based on the amount of Second Lien Debt Claims as of the Petition Date.
General Unsecured Claims Unimpaired, Non-Voting	Except to the extent that a holder of an allowed General Unsecured Claim and the Company Party against which such allowed General Unsecured Claim is asserted agree to less favorable treatment for such holder, in full satisfaction of each allowed General Unsecured Claim against the Debtors, each holder thereof shall receive (i) payment in cash in an amount equal to such allowed General Unsecured Claim in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim, or (ii) such other treatment so as to render such Claim unimpaired.
Intercompany Claims	On the Effective Date, Intercompany Claims shall be reinstated, cancelled, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Pointwell Intercompany Debt	On the Effective Date, the Pointwell Intercompany Debt shall be treated in accordance with the Restructuring Transaction Steps.
Intercompany Interests	On the Effective Date, Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Existing Parent Equity Interests Impaired, Non-Voting, and Deemed to Reject	On the Effective Date, the Pointwell Share Capital shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps.
Subordinated Claims Impaired, Non-Voting and Deemed to Reject	Holders of Subordinated Claims shall not receive or retain any property under the Plan on account of such Subordinated Claims. On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.
Miscellaneous	
Existing / Exit AR Facility	The Existing AR Facility shall stay in place and the Existing AR Lenders shall continue to fund under the Existing AR Facility through consummation of the Plan (which the Company shall negotiate in good faith with the Existing AR Lenders to amend or modify, as needed, to allow for such funding during the pendency of the chapter 11 cases). On the Effective Date, the Existing AR Credit Agreement shall be amended and restated into the Exit AR Facility Agreement.

Summary of Prepetition Obligations and Interests	
Professional Fee Escrow	The Plan shall require the establishment of a professional fee escrow account (the "**Professional Fee Escrow**") to be funded with cash in the amount equal to the Professional Fee Reserve Amount (defined below). It shall be a condition precedent to the substantial consummation of the Plan that the Company shall have funded the Professional Fee Escrow in full in cash in an amount equal to the Professional Fee Reserve Amount. The Professional Fee Escrow shall be maintained in trust solely for the benefit of professionals retained by the Company, any official committee (a **"Committee**") appointed by the Bankruptcy Court, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group (each a "**Professional**," and collectively, the "**Professionals**"). The Professional Fee Escrow shall not be considered property of the Company or its estates, and no liens, claims, or interests shall encumber the Professional Fee Escrow, or funds held in the Professional Fee Escrow, in any way. The "**Professional Fee Reserve Amount**" shall consist of the total amount of (a) any unpaid invoices for fees and expenses incurred by Professionals retained by the Company or any official committee through and including the Effective Date; (b) estimated fees and expenses of the Professionals retained by the Company or any Committee, as estimated by such Professionals in good faith, for (i) accrued but uninvoiced fees and expenses and (ii) post-Effective Date activities, in each case in accordance with the terms of their applicable engagement or reimbursement letters.
Restructuring Fees and Expenses	The Company shall pay, or cause to be paid, immediately prior to the Petition Date, all reasonable and documented fees and expenses for which invoices or receipts are furnished at least one (1) Business Day prior thereto by the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (the "**Restructuring Fees and Expenses**"), including fees and expenses estimated to be incurred prior to the filing of the Chapter 11 Cases, in each case in accordance with the terms of their applicable engagement or reimbursement letters. As a condition precedent to the occurrence of the Effective Date, the Company will pay all Restructuring Fees and Expenses, including those fees and expenses estimated to be incurred through the Effective Date to the extent invoiced at least two (2) Business Days before the Effective Date.
Incentive Plans	Following the Effective Date, the New Board will adopt a post-Restructuring equity incentive plan ("**Incentive Plan**") comprised of the Management Incentive Plan and the Board Incentive Plan, under which up to 10.0% of the Newco Equity will be reserved for issuance as awards thereunder, of which 15.0-20.0% (*i.e.*, between 1.5%-2.0% of Newco Equity) will be reserved for issuance to nonemployee directors under the Board Incentive Plan and the remaining 80.0-85.0% of which (*i.e.*, between 8.0-8.5% of Newco Equity) will be reserved for issuance under the Management Incentive Plan (the "**MIP Award Pool**"). The MIP Award Pool shall be subject to customary equitable adjustments for changes in capitalization and other reorganization events. Any initial grants under the Management Incentive Plan to individuals party to an employment agreement or similar agreement or offer letter that provides for the grant of any equity interests or similar long-term compensation will be subject to agreement by such executive to (x) eliminate such provisions, to the extent still operative, and (y) accept that all long-term compensation going forward will be in the discretion of the New Board. Awards under the Incentive Plan will be partially time-vesting and partially

Summary of Prepetition Obligations and Interests	
	performance-vesting, on such terms as determined by the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). All other terms with respect to the Incentive Plan (including types of awards, allocations and performance thresholds) will be in the discretion of the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). Any amendment to alter the design of the Incentive Plan or to increase the share reserve available for issuance under the Incentive Plan following the Effective Date will require approval by the Evergreen Directors. The terms and conditions of the Board Incentive Plan shall be (i) agreed by a majority (in holdings or pro forma holdings of Newco Equity) of members of the Steering Committee and the Crossholder Group (each as defined in the Governance Term Sheet) and (ii) approved by the New Board following the Effective Date. The Board Incentive Plan shall provide equal compensation to all directors other than the chairman of the New Board; *provided* that any director who is employed by a stockholder of the Company (or an affiliate thereof) shall not be entitled to receive compensation under the Board Incentive Plan. Neither Skillsoft Corporation nor any of its affiliates shall pay an Exit Bonus, as defined in section 4 of the Employment Agreement dated July 9, 2018, if payable in connection with the Restructuring, in any amount in excess of the specified dollar amount set forth in the second line of section 4 of the Employment Agreement.
Tax Attributes	To the extent reasonably practicable, the Restructuring shall be structured in a manner which minimizes any current cash taxes payable by Company and the Consenting Creditors, if any, as a result of the consummation of the Restructuring. The terms of the Plan shall be structured to maximize the favorable tax attributes of the Reorganized Debtors going forward.
Indemnification	The Company's indemnification provisions currently in place (whether in the bylaws, certificates of incorporation (or other equivalent governing documents), or employment contracts) for current and former directors, officers, employees, managing agents, and professionals and their respective affiliates will be assumed by the Company and not modified in any way by the Restructuring through the Plan or the transactions contemplated thereby.
Transfer Restrictions	No restrictions, subject to applicable law.
Governance (Board Composition & Voting)	The organizational documents and/or stockholders agreement of Newco Parent shall provide, in all material respects, for the terms set forth in the Governance Term Sheet.
Releases and Exculpations	
Parties	The "**Released Parties**" and "**Exculpated Parties**" shall include the Company, the First Lien Agent, the Second Lien Agent, [CIT,] the Sponsor and the Evergreen Skills Entities (collectively, the "**Sponsor Entities**"), the Ad Hoc First Lien Group and its current and former members, the Ad Hoc Crossholder Group and its current and former members, and each of their respective current and former affiliates, subsidiaries, members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case in their respective capacities as such) and other persons and entities acceptable to the Company and the Requisite Creditors.

Summary of Prepetition Obligations and Interests	
	If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, then the "Released Parties" and the "Exculpated Parties" shall not include the Sponsor Entities and each of their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such); *provided* that releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps. The "**Releasing Parties**" means, collectively, (i) the holders of all Claims or Interests who vote to accept the Plan, (ii) the holders of all Claims or Interests whose vote to accept or reject the Plan is solicited but who do not vote either to accept or to reject the Plan, (iii) the holders of all Claims or Interests who vote, or are deemed, to reject the Plan but do not opt out of granting the releases set forth therein, (iv) holders of Claims or Interests who voted to reject this Plan but did not opt out of granting the releases set forth in the Plan, and (v) the Released Parties.
Releases by Debtors	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Releases by Holders of Claims and Interests	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely,

Summary of Prepetition Obligations and Interests	
	unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Exculpation	The Plan shall provide: To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Management Incentive Plan, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Schedule 1

Debtors

Accero, Inc.
Amber Holding Inc.
CyberShift, Inc.
CyberShift Holdings, Inc.
MindLeaders, Inc.
MindLeaders Ireland Learning Limited
Pointwell Limited
Skillsoft Canada, Ltd.
Skillsoft Corporation
Skillsoft Ireland Limited
Skillsoft Limited
Skillsoft U.K. Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
SumTotal Systems LLC
Thirdforce Group Limited

EXHIBIT E

GOVERNANCE TERM SHEET

POINTWELL LIMITED, *ET AL.*

Governance Term Sheet

June 12, 2020

This Governance Term Sheet[1] presents certain preliminary material terms in respect of the capital structure and governance of Newco Parent[2] (the "Company"), which will be reflected in definitive documentation to be negotiated, executed and delivered by the Debtors and the Consenting Creditors, subject in all respects to the terms of the Restructuring Support Agreement (the "RSA"). This Governance Term Sheet is not an exhaustive list of all the terms and conditions in respect of the governance of the Company.

CAPITALIZATION	
Capital Stock	***Authorized Shares***: The capital stock of the Company will consist of (i) [__] shares of common stock ("Common Stock") and (ii) 1,000,000 shares of "blank check" preferred stock ("Preferred Stock"), in each case, or the local law equivalent thereof. ***Common Stock***: An aggregate of [__] shares of Common Stock will be issued on the effective date of the reorganization (the "Effective Date") pursuant to the RSA. There will be one class of Common Stock, with one vote per share. ***Preferred Stock***: No shares of Preferred Stock will be issued on the Effective Date. The Board of Directors of the Company (the "Board") will have the power to issue and define the terms of any class or series of Preferred Stock following the Effective Date.
Warrants	Two tranches of warrants (collectively, the "Warrants") will be issued on the Effective Date, having the terms set forth on Exhibit F to the RSA.
BOARD OF DIRECTORS	
Number of Directors	The board of directors of the Company (the "Board") will initially consist of seven directors (each, a "Director").
Initial Composition of the Board	The Board shall initially be comprised of, and all stockholders will agree to vote their shares to elect, the following individuals: (i) the Chief Executive Officer of the Company; (ii) three Directors (each, an "SC Designated Director") nominated by the group of stockholders listed on Annex A hereto (such stockholders, collectively, the "Steering Committee"); (iii) two Directors (each, a "CHG Designated Director") nominated by the group of stockholders listed on Annex B hereto

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

[2] NTD: Newco Parent will be domiciled in Luxembourg. This Term Sheet remains subject to review and comment by local Luxembourg counsel, including to reflect necessary changes based on the final determination of entity type. The Company shall be treated as a corporation for tax purposes.

	(collectively, the "Crossholder Group"); and (iv) one "independent director"[3] (an "Independent Director") nominated by the mutual agreement of the Steering Committee and the Crossholder Group; provided, that the Independent Director shall serve as the Board's chairperson during the Initial Term; provided further that [Eaton Vance Management, Lodbrok Capital LLP and EQT][4] (such stockholders, the "Evergreen Stockholders") shall each have the right to nominate, in its sole discretion, one Director (an "Evergreen Director"; it being understood that the Evergreen Stockholders shall endeavor to name the Evergreen Directors to serve on the initial Board slate prior to the filing of the plan supplement; provided, further, that (x) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Steering Committee shall correspondingly reduce the number of SC Designated Directors and (y) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Crossholder Group shall correspondingly reduce the number of CHG Designated Directors.
Term	The initial Directors shall serve until the Company's annual meeting of stockholders held in 2021 (the "Initial Term"), after which all Directors will be elected at each annual meeting of stockholders to serve one-year terms (in each case unless earlier removed pursuant to the terms of the Company's governing documents, which terms will be mutually acceptable to the Steering Committee and the Crossholder Group).
Nomination of Directors[5]	Following the Initial Term, the following Directors shall be nominated for election at each annual meeting of the Company's stockholders or at a special meeting or by written consent of the stockholders at any time: (i) the Chief Executive Officer of the Company; (ii) the Evergreen Directors; provided that in the event the number of shares of Common Stock held by any Evergreen Stockholder (together with its affiliates) falls below 8% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Award Shares and shares of Common Stock underlying the Warrants (collectively, "Excluded Shares")), then from and after such time such Evergreen Stockholder shall no longer be entitled to nominate an Evergreen Director (it being understood that during the Initial Term the applicable Evergreen Director then serving on the Board shall retain his or her seat on the Board until the first annual meeting); provided that, notwithstanding the foregoing, in the event of

[3] NTD: The "independent director" shall qualify as "independent" as such term is used in the New York Stock Exchange rules.

[4] NTD: As of April 25, 2020, each of the Evergreen Stockholders was entitled to at least 10% of the outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares).

[5] NTD: Following the Initial Term, the Directors shall nominate, by majority vote, a chairperson to preside over meetings of the Board.

		an Evergreen Transfer (as defined below), the applicable transferee shall be considered an "Evergreen Stockholder" for all purposes hereof, other than the right to nominate an Additional Director;
	(iii)	if, following the Effective Date, any stockholder of the Company who was a lender under the First Lien Credit Agreement or the Second Lien Credit Agreement as of April 25, 2020 (including the Evergreen Stockholders), together with its affiliates, increases its holdings of Common Stock to at least 25% of the then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "25% Threshold"), such stockholder (a "Significant Stockholder") shall have the right to nominate two Directors (each, an "Additional Director") at the next annual meeting of the Company's stockholders at which Directors are to be elected or, following the Initial Term, at a special meeting, so long as such Significant Stockholder (together with its affiliates) holds at least 20% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "Additional Directors Floor"); provided that, in the event the number of shares of Common Stock held by a Significant Stockholder (together with its affiliates) falls below the Additional Directors Floor, then from and after such time such Significant Stockholder shall no longer be entitled to nominate any Additional Director; provided, however, that if any Significant Stockholder is also an Evergreen Stockholder, and was an Evergreen Stockholder on the Effective Date, then (x) such Significant Stockholder shall only have the right to nominate one Additional Director (for a total of two Directors) and (y) if the holdings of such Significant Stockholder (together with its affiliates) falls below the Additional Director Floor, then such Significant Stockholder will retain the right to designate an Evergreen Director, subject to the proviso set forth in clause (ii) above; and provided further, that the number of Independent Directors nominated pursuant to clause (iv) immediately below will be reduced, to a number not less than one, in order to accommodate each Additional Director nominated in accordance with the foregoing (and for the avoidance of doubt, if the nomination by a Significant Stockholder of an Additional Director would cause the total number of nominees to the Board to exceed seven, then such Significant Stockholder shall not be entitled to nominate such Additional Director until such time as a seat on the Board becomes available such that such nomination would not cause the total number of nominees to the Board to exceed seven); and
	(iv)	a number of Independent Directors required to fill the remaining seats on the Board, nominated by the stockholders

	collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that in no event will a number of Independent Directors be nominated that would result in the size of the Board exceeding seven Directors.
Voting for Directors	Directors shall be elected by stockholders collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that all stockholders shall be required to vote in favor of the election of the Chief Executive Officer and, to the extent nominated in accordance with clauses (ii) and (iii) of the above section titled "Nomination of Directors", the Evergreen Directors and any Additional Director.
Board Observers	In the event that an Evergreen Stockholder elects an Evergreen Director or Additional Director(s), as applicable, who are not employees of such Evergreen Stockholder or such Evergreen Stockholder's affiliates and who otherwise qualify as an Independent Director, then such Evergreen Stockholder shall also have the right to appoint one non-voting observer to the Board (an "Observer"); provided that any Observer shall execute a confidentiality agreement with the Company in a form reasonably satisfactory to the Company (it being understood that such confidentiality agreements will be in a form reasonably customary for such circumstances).
Removal of Directors	Any Director may be removed from office, either with or without cause, by an affirmative vote of stockholders owning a majority of the outstanding shares of Common Stock; provided that (i) during the Initial Term, a SC Designated Director may only be removed by the Steering Committee, a CHG Designated Director may only be removed by the Crossholder Group and the Independent Director may only be removed by the mutual agreement of the Steering Committee and the Crossholder Group; (ii) any Evergreen Director may only be removed by the applicable Evergreen Stockholder and (iii) any Additional Director may only be removed by the applicable Significant Stockholder; provided, further, that all stockholders shall be required to vote (as necessary) to remove any such SC Designated Director, CHG Designated Director, Independent Director, Evergreen Director or Additional Director, as applicable.
Board Vacancies	Any vacancy on the Board shall be filled by the stockholder(s) entitled to nominate the applicable Director in accordance with the nomination requirements described above in the sections titled "Initial Composition of Board" or "Nomination of Directors", as applicable, and all stockholders shall be required to vote (as necessary) to elect such person as a Director[6]; provided that, during the Initial Term, (i) any vacancy on the Board with respect to the SC Designated Directors shall be filled by

[6] NTD: For the avoidance of doubt, no vacancy will result in the event that an Evergreen Stockholder or Significant Stockholder fails to maintain its holdings at the level required in clause (ii) or clause (iii) of "Nomination of Directors", as applicable. Rather (subject to the rights of the Evergreen Stockholders during the Initial Term or with respect to an Evergreen Transfer), such Director seat shall be filled in accordance with clause (iv) of "Nomination of Directors".

	any remaining SC Designated Director(s), (ii) any vacancy on the Board with respect to the CHG Designated Directors shall be filled by any remaining CHG Designated Director, and (iii) any vacancy on the Board with respect to the Independent Director shall be filled by the mutual agreement of the SC Designated Directors and the CHG Designated Directors; provided, further, that, during the Initial Term, (x) if there are no remaining SC Designated Directors, then any such vacancy shall be filled by a majority in interest of the Steering Committee and (y) if there are no remaining CHG Designated Directors, then any such vacancy shall be filled by a majority in interest of the Crossholder Group.
Quorum	The presence of a majority of all Directors then serving on the Board shall constitute a quorum at any meeting of the Board.
Board Voting	All matters will require approval of a majority of the Board; provided that, until the third anniversary of the Effective Date, the following actions (the "Supermajority Matters") shall require the affirmative vote of at least five of seven Directors (or, in the event of a vacancy that remains unfilled for 6 months, an equivalent supermajority): (i) any proposed disposition of 35% or more of the equity interests, or a majority of the assets, of SumTotal Systems, LLC or any of its successors; (ii) the appointment, termination or removal of the Chief Executive Officer of the Company; (iii) (A) a refinancing of 100% of the Company's existing financing arrangements, or (B) the incurrence by the Company and/or its subsidiaries of indebtedness (other than pursuant to financing arrangements in existence on the Effective Date) in excess of $65,000,000, including a partial refinancing of existing indebtedness in excess of such amount; and (iv) any Preferred Stock capital raise in excess of $30,000,000.
Action by Written Consent	Any action by the Board may be taken by unanimous written consent in lieu of a meeting.
Board Committees	Board committees may be created by the Board. Committees are permitted to act in any manner only to the extent authorized by the Board and permitted by applicable law. Board committee composition to reflect the composition of the Board.
Subsidiary Boards	Any board of directors (or similar governing body) of any subsidiary of the Company shall be comprised of the same individuals then serving as Directors on the Board, in each case, unless otherwise agreed by the person or group nominating such individual.
Director Limitations	Notwithstanding anything herein to the contrary, in no event shall any individual be nominated or elected as a Director if such person is also (i) employed by a Competitor (as defined below), (ii) employed by an affiliate of a Competitor, or (iii) a holder of 10% or more of the outstanding equity of a Competitor, or if the election of such person would cause the Company to violate applicable law, including antitrust

	laws. "Competitor" shall mean a competitor of the Company as determined by the Board in its reasonable business judgment; provided, however, that in no event shall the members of the Steering Committee and the Crossholder Group (including such members' directors, officers, employees, agents and affiliates) be considered "Competitors".
STOCKHOLDER RIGHTS	
Annual Meetings	Each annual meeting of the Company's stockholders must be held within 13 months of the prior year's annual meeting.
Special Meetings	One or more stockholders (the "Requesting Stockholders") collectively holding at least 25% of the outstanding shares of Common Stock may call a special meeting of the stockholders. Special meetings must be held within 60 days of a request by the Requesting Stockholders.
Stockholder Proposals	At any meeting of stockholders, only the business brought forward by the Directors or the stockholders shall be decided. To submit business (i) for an annual meeting, a stockholder must provide notice not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting and (ii) for a special meeting, the Requesting Stockholders must provide notice in connection with their request for such meeting. In each case, stockholders must provide a description of business to be discussed along with information about their holdings and interests in the Company in the notice. There is no limit with respect to the number of matters that can be brought at a meeting.
Quorum	Stockholders holding a majority of the then-outstanding shares of Common Stock shall constitute a quorum. Unless otherwise required by law or the Company's governing documents, the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock present in person or voting by proxy shall be sufficient to take corporate action.
Stockholder Approval Matters	The following actions shall require the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock: (i) the matters set forth in clauses (i) and (iii) of the definition of "Supermajority Matters"; provided that stockholder approval shall not be required for any matter set forth in clause (iii)(A) of the definition of "Supermajority Matters", or for any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters" if, in the case of any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters", the proceeds of such financing are used for general corporate purposes; (ii) the issuance, in one or more related transactions, of any shares of Common Stock (or Preferred Stock or other securities convertible into or exchangeable for Common Stock) exceeding 20% of the then-outstanding shares of Common Stock; and

	(iii) following the 48-month anniversary of the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of all or substantially all of the assets and other similar change-of-control transactions).
Stockholder Action by Written Consent	Stockholders may take any action without a meeting if stockholders having at least the minimum number of votes required to take such action at a meeting at which all shares entitled to vote thereon were present and voted consent in writing (including by electronic submission), provided that prompt written notice of such action is provided to the non-consenting stockholders; and provided, further, that, except with respect to the election of Directors following the Initial Term in accordance with the above section titled "Nomination of Directors", such written notice will be delivered not less than [___] days following such action.
Transfers	Common Stock will be freely transferable, subject to compliance with applicable law. Notwithstanding the foregoing, holders of Common Stock (including Common Stock issuable upon exercise of Warrants) or Warrants shall not transfer any such Common Stock or Warrants, as applicable, if, in the Board's judgment, such transfer could, or may reasonably be expected to, result in an increase in the number of holders of record of such class of equity securities which would cause the Company to become required to register such securities under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). In the event that an Evergreen Stockholder transfers all of its Common Stock to an unaffiliated transferee and, at the time of such transfer, such Evergreen Stockholder is entitled to nominate an Evergreen Director in accordance with clause (ii) of the above section titled "Nomination of Directors" (such transfer, an "Evergreen Transfer"), then the right of such Evergreen Stockholder to nominate an Evergreen Director shall transfer to such unaffiliated transferee and all rights and limitations hereunder applicable to an Evergreen Stockholder (other than the right to nominate an Additional Director) shall apply to such transferee mutatis mutandis.
Sale of the Company	During the 48-month period following the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of a majority of the assets and other similar change-of-control transactions), will require the approval of the holders of 66 2/3% or more of the then-outstanding shares of Common Stock.
Drag-Along Right[7]	Subject to the stockholder approval rights set forth in the above sections titled "Reserved Matters" and "Sale of the Company", as applicable, the Company and stockholders will have customary drag-along rights (the "Drag-Along Rights") to require all stockholders to participate on a *pro*

[7] NTD: The definitive governance agreements will address the issue of non-cash consideration in drag or tag-along transactions and the ability of CLOs to participate in such transactions.

	rata basis in any merger, consolidation or other similar transaction or series of related transactions pursuant to which any person or group of persons acquires from the stockholders of the Company 50% or more of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) of all shares of Common Stock held by such selling stockholders to an unaffiliated third party in a bona fide transaction. The Drag-Along Rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders shall be in the same form and amount per share.
Tag-Along Right	Stockholders will have customary tag-along rights in the event that one or more stockholders wish to sell Common Stock representing at least [___]% of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) to an unaffiliated third party in a bona fide transaction (a "Tag-Along Sale"). Tag-along rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders participating in transactions subject to such tag-along rights shall be in the same form and amount per share. In the event of a Tag-Along Sale, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in the Tag-Along Sale with respect to the Common Stock received pursuant to such exercise.
Preemptive Rights	From and after the Effective Date and prior to a qualified IPO, holders of more than 1% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) will have customary preemptive rights on all issuances by the Company and its subsidiaries of equity and convertible debt securities (subject to customary exceptions.[8] In the event of any such issuance, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, exercise preemptive rights with respect to the Common Stock received pursuant to such exercise.
Information Rights	The Company shall provide all holders of more than 1.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) with both quarterly unaudited financial statements within a customary time period following each quarter's end and annual audited financial statements within a customary time period following each fiscal year's end (the foregoing financial statements provided to all stockholders, the "Financial Statements"); provided that the Company shall not provide such information to any stockholder that is a Competitor.[9] Information to be subject to customary confidentiality requirements. In addition, the Company will schedule a teleconference

[8] NTD: Ability to issue securities in the event emergency funding is required to be discussed in conjunction with the stockholders agreement and, unless such issuance is exclusively in the form of debt securities, all holders that were otherwise entitled to participate shall be provided with preemptive rights post-closing.

[9] NTD: Timing of information rights related deliveries to align with reporting requirements under credit documents of the Company and/or its subsidiaries.

	with (i) all holders of more than 3.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares), other than Competitors, and (ii) all holders of then-outstanding Common Stock who are also members of the Steering Committee and Crossholder Group as of the date of the RSA, between 5 and 15 business days after the delivery of each quarterly and annual financial report to discuss the Company's business, financial condition and financial performance, prospects, liquidity and capital resources.
Registration Rights	***Demand Registration Rights***: Following an initial public offering by the Company (an "IPO"), upon receipt of a demand by one or more holders collectively holding at least 10% of the outstanding shares of Common Stock (collectively, "Registrable Securities"), subject to mutually agreed restrictions regarding the aggregate number of demand rights and customary time limitations and suspension/blackout periods, the Company shall provide a notice to all holders of Registrable Securities to allow participation in a registration as selling holders. Amounts sold by selling holders will be *pro rata* based on the relative amounts of Registrable Securities held by them, subject to *pro rata* reduction based on any cap on the number of securities to be sold as advised by the underwriters, and subject to normal blackout provisions. For the avoidance of doubt, Warrants shall not be considered "Registrable Securities" hereunder. Notwithstanding the foregoing, following the Company's receipt of a demand in accordance with the preceding paragraph, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in such registration with respect to the Common Stock received pursuant to such exercise. ***Piggyback Registration Rights***: If the Company plans to file a registration statement (other than for an IPO or in other customary circumstances in which piggy-back rights are not appropriate), the Company shall provide a notice to all holders of Registrable Securities to offer participation in the registration as selling holders. The Company shall have the right to sell as many shares as the Company wants and any additional securities that may be sold as advised by the underwriters will be allocated among the participating selling holders on a *pro rata* basis based on the relative amounts of Registrable Securities held by them, in all cases subject to normal blackout provisions. ***Lock-Up***: Any reasonable lock-up requested by underwriters shall apply only to selling holders and, in connection with an IPO only, holders holding more than 5% of the outstanding shares of Common Stock. Registration Rights shall be provided pursuant to an agreement in reasonably customary form for transactions of this type.
OTHER	
Dividends	Subject to applicable law, the Board may declare and pay dividends upon the shares of the Company's capital stock.

Corporate Opportunities	No executive director or officer of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan. No non-executive director of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan, in each case, if, and only to the extent, such corporate opportunity was presented to, or acquired, created or developed by, or otherwise came into the possession of, such non-executive director expressly, solely and directly in such person's capacity as a director of the Company, unless a majority of disinterested Directors confirms that the Company (including its subsidiaries) will not pursue such opportunity. For the avoidance of doubt, no stockholder of the Company shall be restricted from pursuing any corporate opportunities, unless such stockholder is also a director or officer of the Company and/or its subsidiaries.
Related Party Transactions	Other than commercial transactions in the ordinary course of business consistent with past practice on arms'-length terms and the issuance of securities pursuant to the preemptive rights described above, the entering into of any transaction with (i) a stockholder, director or officer of the Company, (ii) any entity in which one or more stockholders, directors or officers of the Company owns, directly or indirectly, individually or in the aggregate, 5% or more of the outstanding equity securities of such entity or (iii) any "affiliate", "associate" or member of the "immediate family" (as such terms are respectively defined in rules and regulations under the Exchange Act) of any person described in the foregoing clauses (i) or (ii) shall, in each case, require the affirmative vote of a majority of Directors (excluding any Director who is, or is a related party of, the person with whom the Company or any of its subsidiaries is proposing to enter into the relevant transaction).
Amendments to Governing Documents	***Bylaws***: Subject to applicable law and the terms of the stockholder agreement to which the Company is party (the "Stockholder Agreement") and the Company's certificate of incorporation (as amended, the "Charter"), the bylaws of the Company (the "Bylaws") may be amended or repealed, or new Bylaws adopted, by either the Board or stockholders holding a majority of outstanding shares of Common Stock. ***Charter***: Any amendment to the Charter shall be made in accordance with applicable law. ***Stockholder Agreement***: Amendments to provisions of the Stockholder Agreement shall require the prior consent of stockholders holding (a) 66 2/3% of the then-outstanding shares of Common Stock, with respect to amendments to provisions of the Stockholder Agreement related to: (i) Board participation rights; (ii) size of the Board; (iii) supermajority Board approval rights; (iv) stockholder approval rights; (v) Tag-Along Sale rights; (vi) sale of the Company approval rights; (vii) preemptive rights; and (viii) registration rights and (b) a majority of the then-outstanding shares of Common Stock for all other amendments (in

	either case of (a) or (b), the "Amendment Threshold"); provided that (i) no amendment may adversely affect a stockholder relative to other stockholders without such stockholder's specific written consent; (ii) any amendment to the provisions of the Stockholder Agreement regarding the rights of one or more stockholders to nominate Directors shall require the written consent of all such nominating stockholders; and (iii) no provision of the Stockholder Agreement which requires the consent of stockholders owning more than the Amendment Threshold to take the action described therein may be amended without the consent of stockholders owning such higher percentage of shares of Common Stock. Upon an IPO, the Stockholder Agreement (other than provisions relating to registration rights) shall terminate. In the event of a conflict between the Stockholder Agreement, on the one hand, and the Bylaws or the Charter, on the other hand, the Stockholder Agreement will prevail, and the stockholders will take all actions necessary to amend the Charter and/or Bylaws to the extent necessary to conform to the relevant terms of the Stockholder Agreement.

ANNEX A

Steering Committee

- Alcentra Limited
- Apollo Capital Management, L.P.
- Benefit Street Partners L.L.C.
- DDJ Capital Management, LLC
- Eaton Vance Management, Boston Management and Research, Calvert Research and Management
- PGIM, Inc.
- Symphony Asset Management LLC
- Voya Investment Management Co, LLC

ANNEX B

Crossholder Group

- CRF2 SA, CRF3 Investments I S.à.r.l., EAD Credit Investments I SARL, and Empire Credit Investments I SARL (collectively, "EQT")
- Lodbrok Capital LLP
- Signature Global Asset Management, a division of CI Investments Inc.
- MS Capital Partners Adviser Inc.

EXHIBIT F

WARRANT TERM SHEET

Warrant Term Sheet[1][2]

June 12, 2020

This Warrant Term Sheet, which is Exhibit F to a Restructuring Support Agreement dated June 12, 2020 (the "***Restructuring Support Agreement***"), by and among Pointwell Limited and certain of its affiliates and subsidiaries, the Agent, and the Consenting Lenders, describes the material terms relating to warrants to be issued by Newco Parent that would be issued in connection with the consummation of the Restructuring.[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Restructuring Support Agreement.

THIS WARRANT TERM SHEET IS PRESENTED FOR DISCUSSION AND SETTLEMENT PURPOSES AND IS ENTITLED TO PROTECTION FROM ANY USE OR DISCLOSURE TO ANY PERSON PURSUANT TO RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER RULE OF SIMILAR IMPORT.

THIS WARRANT TERM SHEET DOES NOT PURPORT TO SUMMARIZE ALL OF THE TERMS, CONDITIONS, COVENANTS AND OTHER PROVISIONS THAT MAY BE CONTAINED IN THE FULLY NEGOTIATED AND EXECUTED DEFINITIVE DOCUMENTATION IN CONNECTION WITH THE ISSUANCE OF WARRANTS. THIS WARRANT TERM SHEET AND THE INFORMATION CONTAINED HEREIN SHALL REMAIN STRICTLY CONFIDENTIAL.[4]

Term	Description
Issuer:	Newco Parent (such entity, "***Issuer***").[5]
Warrants:	On the Effective Date (the "***Effective Date***"), Issuer will issue the following two tranches of warrants (collectively, the "***New Warrants***") to the holders thereof (collectively, the "***Holders***"): - ***Tranche A Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche A Warrants, common stock of Issuer ("***New Common Stock***") representing in the aggregate 5% of the total outstanding New Common Stock; and - ***Tranche B Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche B Warrants, New Common Stock representing in the aggregate 10% of the total outstanding New Common Stock. For purposes of calculating the percentage of New Common Stock issued upon exercise of the New Warrants, the total outstanding New Common Stock shall be calculated as of the Effective Date and assuming the exercise of all such New Warrants (but excluding any New Common Stock issued or reserved for issuance under any management and/or board incentive plan implemented by Issuer).[6]

Exercise Price:	The exercise price for the New Warrants (the "***Exercise Price***") will be fixed as of the Effective Date (as may be thereafter adjusted as set forth under "Fundamental Transaction" and "Anti-Dilution" below) and shall be as follows: - To the extent that the Holder elects to exercise the Tranche A Warrants: a price per share equal to [___][7] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium; and - Tranche B Warrants: a price per share equal to [___] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium.[8][9]
Term:	The New Warrants will expire on the earlier of (x) the fifth (5th) anniversary of the Effective Date and (y) the consummation of a Fundamental Transaction (as defined below) (the "***Expiration Date***"). Upon the fifth (5th) anniversary of the Effective Date, each outstanding New Warrant shall automatically be deemed to be exercised on a "cashless basis"[10] (as described below).
Fundamental Transaction:	Each New Warrant shall be automatically exercised immediately prior, but subject to, the consummation of a Fundamental Transaction on a "cashless basis" (as described below) and each Holder shall participate in such Fundamental Transaction with respect to the shares of New Common Stock issuable upon such exercise.[11] The exercise price applicable to such exercise will be the lesser of (i) the then-current Exercise Price, and (ii) a Black Scholes Adjusted Exercise Price (which will be a price calculated to provide to each Warrant holder ordinary shares which, when exchanged for the Fundamental

[1] **Note to Draft**: Subject to review in connection with ongoing structuring discussions.

[2] **Note to Draft:** Subject to review by Luxembourg counsel to the Company.

[3] **Note to Draft:** All definitions subject to alignment with RSA.

[4] The terms of the New Warrants remain subject to revision for reconciliation with applicable Luxembourg law.

[5] Issuer to be top entity in post-reorganization structure.

[6] Subject to revision for reconciliation with applicable Luxembourg law.

[7] **Note to Draft**: Price per share should reflect an amount that will equal 105% recovery to the 1L lenders on converted face amount.

[8] **Note to Draft**: Price per share should reflect an amount that will equal 110% recovery to the 1L lenders on converted face amount.

[9] **Note to Draft**: Par value must be set and remain at a point that causes the maximum cash exercise price for all Warrants not to exceed [$100].

[10] Subject to revision for reconciliation with applicable Luxembourg law.

[11] **Note to Draft**: Parties to address potential competition law filings to resulting from actual issuance of shares in this context.

	Transaction consideration per ordinary share (the "***Transaction Consideration***"), will cause the holder to realize, net of the Black Scholes Adjusted Exercise Price, a net Fair Market Value of the Transaction Consideration equal to the Black Scholes Value per share of each Warrant). As used herein, "***Fundamental Transaction***" means any (i) merger, consolidation, amalgamation or other similar transaction or series of related transactions to which the Issuer is a party and pursuant to which (A) an existing Stockholder (or its affiliate, or other person comprising an existing stockholder and one or more of its affiliates) acquires 90% or more of the voting power of the outstanding securities of the Issuer or (B) the "beneficial owners" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended) of the outstanding equity securities of Issuer immediately prior to such transaction "beneficially own" in the aggregate less than 50% of the voting power of the outstanding equity securities of the surviving entity immediately following such transaction, (ii) sale, transfer or disposition of all or substantially all of Issuer's assets (by value), which is consummated with a third-party who is unaffiliated with Issuer (other than a stockholder who is affiliated with the Issuer) at the time of such transaction, or (iii) voluntary or involuntary dissolution, liquidation or winding-up of Issuer, in each of cases (i)-(iii), which is effected in such a way that the holders of New Common Stock receive or are entitled to receive (either directly or upon subsequent liquidation) cash, stock, securities or other assets or property with respect to or in exchange for New Common Stock. As used herein, "***Black Scholes Value***" means the value of the unexercised portion of any New Warrants remaining on the date of any Holder's notice of election, which value shall be determined by an investment banking firm or independent third-party appraiser, in each case of nationally recognized standing (the "***Appraiser***") using the Black Scholes Option Pricing Model for a "call" option, as obtained from the "OVME" function on Bloomberg, L.P. subject to the following assumptions: (i) an underlying price per share equal to the sum of the price per share of New Common Stock being offered in cash in the applicable Fundamental Transaction (if any) *plus* the Fair Market Value of the non-cash consideration being offered to holders with respect to each share of New Common Stock in the applicable Fundamental Transaction (if any), (ii) a strike price equal to the Exercise Price in effect on the date of the Holder's notice of election, (iii) a risk-free interest rate corresponding to the interpolated rate on the United States Treasury securities with a maturity closest to the remaining term of the New Warrant as of the date of consummation of the applicable Fundamental Transaction, (iv) a zero cost of borrow and (v) an expected volatility equal to 35%. For purposes of determining the Black Scholes Value and the Fair Market Value (as described below), the Appraiser shall be selected by the Independent Director (as defined in the Governance Term Sheet) or, if there is more than one Independent Director on the New Board at such

	time, a majority of such Independent Directors, in each case at the sole cost and expense of the Issuer.[12]
Exercise; Payment of Exercise Price:	The New Warrants shall be exercisable, at the option of the Holder thereof, at any time prior to the Expiration Date, in whole or in part, into New Common Stock, by delivering to Issuer such New Warrant(s), together with a notice of exercise of such New Warrant(s). The issuance of New Common Stock pursuant to the exercise of New Warrants (collectively, the "***Warrant Shares***") shall be subject to payment in full by the Holder of the applicable Exercise Price either (i) by delivery to Issuer of a certified or official bank check or by wire transfer of immediately available funds in the amount of the aggregate Exercise Price for such Warrant Shares or (ii) on a "cashless basis" by paying the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) as follows: (i) payment by the Holder of the par value of the Warrant Shares in cash, and (ii) payment of the difference of the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) by instructing Issuer to withhold a number of Warrant Shares (or fraction thereof) then issuable upon exercise of such New Warrant(s) with an aggregate Fair Market Value as of the Exercise Date equal to such aggregate Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) (in either case, less the amount of the cash exercise payment). For purposes of such a "cashless" exercise, the value of the Warrant Shares withheld will be calculated based on the per share fair market value ("***Fair Market Value***") of New Common Stock: (a) if the Warrant Shares are then listed for trading on a national securities exchange, based on the 30 consecutive trading day volume weighted average closing price as of such date or (b) if the Warrant Shares are not so listed for trading on a national securities exchange, as determined by the Appraiser.[13]
Stockholder Rights:	Neither the New Warrants nor anything contained in the definitive documentation for the New Warrants shall be construed as conferring upon the Holders thereof (i) the right to vote, participate, consent or receive notice as a holder of New Common Stock in respect of any meeting of holders of New Common Stock for the election of directors of Issuer or any other matter, (ii) the right to receive dividends or other distributions as a holder of New Common Stock, or (iii) any other rights of a stockholder, whether or not granted to holders of New Common Stock under Issuer's governing documents.
Issuer Obligation:	The Issuer shall ensure that it at all times maintains an authorized share capital equivalent to the number of outstanding New Warrants to ensure that exercise of same may be completed at any time prior to the Expiration Date.

[12] Subject to revision for reconciliation with applicable Luxembourg law.

[13] Subject to revision for reconciliation with applicable Luxembourg law.

Anti-Dilution:	The New Warrants will be subject to (i) dilution by the management and board incentive plans, consistent with the Restructuring Term Sheet and (ii) customary adjustments (an "***Anti-Dilution Adjustment***") for (a) the subdivision or combination of the New Common Stock underlying the New Warrants, (b) the payment by Issuer of dividends or other distributions on the outstanding New Common Stock in Issuer payable in New Common Stock, other shares of capital stock of Issuer, rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock, or in cash or other property and (c) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock; provided, however, there shall be no Anti-Dilution Adjustment to the Warrants (x) for any (1) payment by Issuer of dividends or other distributions on the outstanding New Common Stock of Issuer payable in rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock (a "***Below FMV Issuance***") to the extent such rights are offered solely to holders of New Common Stock that are also New Warrant holders, or (2) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock (an "***Above FMV Repurchase***") to the extent such repurchase solely applies to shares of New Common Stock held by holders of New Common Stock that are also New Warrant holders or (y) with respect to any Below FMV Issuance or Above FMV Repurchase approved by the New Board if, at the time of such approval, a majority of the New Board comprises representatives of EQT (as defined in the Governance Term Sheet), Lodbrok Capital LLP, their respective affiliates or the transferees of New Warrants from any of the foregoing. In addition, in the event of any (i) reclassification of the New Common Stock, (ii) consolidation or merger of Issuer with or into another person or (iii) other similar transaction, in each case which (x) does not constitute a Fundamental Transaction and (y) entitles the holders of New Common Stock to receive (either directly or upon subsequent liquidation and whether in whole or in part) securities or other assets in exchange for the New Common Stock, the New Warrants shall, immediately after such transaction, remain outstanding and shall thereafter, in lieu of the number of shares of New Common Stock then issuable upon exercise of the New Warrants, be exercisable for the kind and number of securities or other assets resulting from such transaction which the Holders would have received upon consummation of such transaction if the Holders had exercised the New Warrants in full immediately prior to the time of such transaction and acquired the applicable number of shares of New Common Stock then issuable upon exercise of the New Warrants as a result of such exercise.[14] For purposes of any Anti-Dilution Adjustment, the "Fair Market Value" of New Common Stock shall be determined in the same manner as

[14] Subject to revision for reconciliation with applicable Luxembourg law.

	described above with respect to the Fair Market Value of Warrant Shares.
Transferability:	The New Warrants shall be transferrable, subject to applicable securities laws (including securities laws applicable to the Issuer as a private company) and such restrictions as are in effect in respect of the New Common Stock.
Amendment:	The terms and conditions of the New Warrants may be amended (i) within the first year following the Effective Date, by vote of more than 66.7% of the Board members appointed by shareholders other than the members of the Ad Hoc Crossholder Group and (ii) after the first anniversary of the Effective Date, by vote of 5 of 7 members of the New Board; *provided* that any amendment that would affect the Exercise Price, number of Warrant Shares for which the New Warrants may be exercised, or would materially and adversely affect the Holders shall require the affirmative vote or written consent of the Holders of a majority of the outstanding New Warrants.[15]
Governing Law:	Luxembourg[16]

[15] Subject to revision for reconciliation with applicable Luxembourg law. The amendment provisions of the New Warrants to contain a power of attorney to permit such provisions to function without requiring consent by all contracting parties.

[16] Power of attorney function is intended to address the concern about amendments.

EXHIBIT G

FORM OF JOINDER AGREEMENT FOR CONSENTING CREDITORS

This Joinder Agreement to the Restructuring Support Agreement, dated as of June 12, 2020 (as amended, supplemented, or otherwise modified from time to time, the "**Agreement**"), by and among the Company and the Consenting Creditors, is executed and delivered by _____ (the "**Joining Party**") as of [●], 2020. Each capitalized term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. Agreement to be Bound. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Annex I (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be (i) a "Consenting First Lien Creditor" and/or a "Consenting Second Lien Creditor," (ii) a "Consenting Creditor," and (iii) a "Party" for all purposes under the Agreement and with respect to any and all Claims and Interests held by such Joining Party.

2. Representations and Warranties. With respect to the aggregate principal amount of the First Lien Debt, the Second Lien Debt, and Interests, in each case, set forth below its name on the signature page hereto, the Joining Party hereby makes the representations and warranties of the Consenting Creditors set forth in Section 7 and Section 21 of the Agreement to each other Party to the Agreement.

3. Governing Law. This Joinder Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date written above.

CONSENTING CREDITOR

By: _____

Name: _____

Title: _____

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

Fax:_____
Attention:_____
Email:_____

Acknowledged:

[●]

By:_____
Name:
Title:

EXHIBIT "D"

Declaration of Christopher A. Wilson in support of the Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief

(*See attached*)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*,	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

DECLARATION OF CHRISTOPHER A. WILSON IN SUPPORT OF MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION SENIOR SECURED SUPERPRIORITY FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

I, Christopher A. Wilson, pursuant to section 1746 of title 28 of the United States Code, hereby declare as follows under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I am a Managing Director in the Technology, Media & Telecom Group at Houlihan Lokey Capital, Inc. ("**Houlihan**"), a financial advisory firm that maintains an office at 10250 Constellation Blvd., Los Angeles, California 90067. In the near term, Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**") expect to file an application seeking the authority to retain Houlihan as their investment banker in these chapter 11 cases.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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2. I am authorized to submit this Declaration on the Debtors' behalf in support of the *Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**DIP Motion**").[2] In particular, I submit this declaration (the "**Declaration**") as evidence that the proposed postpetition senior secured super-priority financing in an aggregate principal amount of $60 million (the "**DIP Facility**" and the lenders thereto, the "**DIP Lenders**") (a) is in the best interest of the Debtors, their estates, and all parties in interest in these chapter 11 cases and (b) will provide the Debtors with access to sufficient working capital and liquidity to operate during these chapter 11 cases.

3. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge of the Debtors' operations and finances, my experience, information learned from my review of relevant documents, and information supplied by members of the Debtors' management and the Debtors' other advisors. If called upon to testify, I can and will testify competently to the facts set forth herein on that basis.

I.
Qualifications

4. Houlihan is an internationally recognized investment banking and financial advisory firm with twenty-two offices worldwide and approximately 1,200 employees. Houlihan provides corporate finance, financial advisory, and financial restructuring services. In 2019, Houlihan was ranked as the No. 1 M&A advisor for U.S. transactions, according to Thomson

[2] Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the DIP Motion.

Reuters. The firm is one of the leading providers of M&A fairness opinions and has the largest worldwide financial restructuring practice of any investment bank. Houlihan annually serves more than 1,000 clients ranging from closely held companies to Global Fortune 500 corporations.

5. Houlihan is one of the leading advisors and investment bankers to debtors, secured and unsecured creditors, acquirors, and other parties-in-interest in complex financial restructurings, both in and outside of bankruptcy. Houlihan has been and is involved in a number of large restructuring cases in the United States, as well as chapter 11 restructurings that involve cross-border proceedings, including representing debtors in: *In re Alpha Entm't LLC*, No. 20-10940 (LSS) (Bankr. D. Del. Apr. 13, 2020); *In re Bumble Bee Parent, Inc.*, No. 19-12502 (LSS) (Bankr. D. Del. Nov. 21, 2019); *In re Emerge Energy Servs. LP*, No. 19-11563 (KBO) (Bankr. D. Del. July 15, 2019); *In re Bristow Grp. Inc.*, No. 19-32713 (DRJ) (Bankr. S.D. Tex. May 11, 2019); *In re Ditech Holding Corp.*, No. 19-10412 (JLG) (Bankr. S.D.N.Y. Feb. 11, 2019); *In re Promise Healthcare Grp., LLC*, No. 18-12491 (CSS) (Bankr. D. Del. Nov. 5, 2018); *In re Heritage Home Grp. LLC*, No. 18-11736 (BLS) (Bankr. D. Del. July 29, 2018); *In re Walter Inv. Mgmt. Corp.*, No. 17-13446 (JLG) (Bankr. S.D.N.Y. Nov. 30, 2017); *In re Angelica Corp.*, No. 17-10870 (JLG) (Bankr. S.D.N.Y. May 9, 2017); *In re Gawker Media, LLC*, No. 16-11700 (SMB) (Bankr. S.D.N.Y. June 10, 2016); *In re Relativity Fashion, LLC*, No. 15-11989 (MEW) (Bankr. S.D.N.Y. Feb. 1, 2016); *In re Phoenix Brands, LLC*, No. 16-11242 (BLS) (Bankr. D. Del. Jul. 5, 2016); *In re Trump Entm't Resorts, Inc.*, No. 14-12103 (LSS) (Bankr. D. Del. Sept. 9, 2014); and *In re Tactical Intermediate Holdings, Inc.*, No. 14-11659 (KG) (Bankr. D. Del. July 8, 2014).

6. I joined Houlihan in 2001. In my current capacity as a Managing Director in Houlihan's Technology, Media & Telecom Group, I represent clients in connection with mergers and acquisitions, financial restructurings, and financial advisory assignments. Previously, I was a

member of Houlihan's Financial Restructuring Group, where I focused on financial restructurings across the telecommunications and media sectors. I have more than 25 years of experience providing financial advisory services, including extensive experience in mergers and acquisitions, valuation, and restructuring services in distressed situations. I have also advised companies and creditor groups in connection with a variety of financing-related issues, including assisting chapter 11 debtors in obtaining and negotiating the terms of debtor-in-possession loans. I have played a key role in the restructurings of Sungard Availability Services, Synchronoss Technologies, Getty Images, Education Management Corporation, Intelsat S.A., Houghton Mifflin Harcourt, Edmentum, Cengage Learning, TerreStar, WorldCom, ICG Communications, Asia Global Crossing, Williams Communications Group, Covad Communications, Adelphia Business Solutions, 360 Americas, Genesys S.A., SpectraSite, Vartac Communications, Williams Communications, Horizon PCS, Charter Communications, RH Donnelley, and Metro-Goldwyn-Mayer.

7. Prior to joining Houlihan, I specialized in providing investment banking services, including merger and acquisition and corporate finance advice to media and telecommunications clients at Montgomery Securities (now Bank of America Merrill Lynch, as a result of a series of mergers after my departure). I was also a member of the Investment Banking Group of EVEREN Securities focused on the consumer and retail industries, a member of the leveraged lending and corporate finance group of Union Bank, and a member of the foreign exchange trading department at Bank of America. Prior to joining Bank of America, I managed proprietary trading in foreign exchanges and derivatives at Drexel Burnham Lambert from 1986 until 1990. I hold a B.A. in Computer Science from Harvard University and an M.B.A., with honors, from the Anderson Graduate School of Management at UCLA.

II.
Debtors' Need for DIP Financing

8. I am familiar with the Debtors' operations and projected cash flows, and understand that the Company and its advisors, including Houlihan, have worked to regularly update and refine the Company's cash flow projections and liquidity forecasts in light of drastic and unpredictable market changes stemming from the COVID-19 pandemic, among other evolving circumstances. Based upon my knowledge and familiarity with the Company's operations, I believe that the Company's access to immediate incremental liquidity through the Debtors' proposed DIP Facility will be critical to preserve the value of the Debtors' estates.

9. A detailed overview of the Company's business is provided in the *Declaration of John Frederick in Support of the Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), which has been filed contemporaneously herewith. As of the Petition Date, the Company's prepetition capital structure consists of approximately $2.1 billion in outstanding funded indebtedness. Faced with mounting debt servicing payments along with decreased order intake and trade contraction attributable to the COVID-19 pandemic, the Company's liquidity has tightened, particularly over the last six months, and the Company is close to falling below the minimum liquidity cushion that the Company's management and advisors have deemed necessary for the Company to continue operating its business in the ordinary course. In light of these liquidity challenges, the Debtors require immediate access to debtor-in-possession financing and authority to use cash collateral to ensure that they have sufficient working capital to operate their businesses in the ordinary course of business and to administer their estates.

10. Absent the authority to enter into the DIP Credit Agreement and access the DIP Financing, even for a limited period of time, the Company will be unable to continue operating its businesses in the ordinary course, which will cause irreparable harm to the Company and its

stakeholders. Additionally, I believe it is imperative that the Company send a clear message to its business partners, employees, and customers that it will be well-capitalized during the chapter 11 cases. Any market perception that the Debtors will not be able to sustain operations through the bankruptcy process may result in a loss of key customers and a decline in order intake that will exacerbate the Company's ability to successfully restructure and emerge as a going concern, especially considering the growing competitive market in which the Debtors operate. It is therefore my belief that the proposed DIP Financing is in the best interests of the Debtors and their stakeholders.

III.
Efforts to Obtain DIP Financing

11. Leading up to the Petition Date, as part of their broader restructuring process, the Debtors, with the assistance of their professionals, searched for potential sources of postpetition financing that could provide the Debtors with sufficient liquidity to fund their business operations during the restructuring process.

12. Notably, the vast majority of the Debtors' assets are encumbered by liens granted to the First Lien Lenders and Second Lien Lenders, such that any potential third party financing would have to be all or partially unsecured, on a junior basis, "prime" the Company's existing secured lenders' prepetition liens, or be secured by the Debtors' immaterial unencumbered assets. Additionally, the Debtors were informed by First Lien Lenders constituting Required Lenders under, and as defined in, the First Lien Credit Agreement that they would not consent to being primed by any third-party DIP financing, which, given the value of the Debtors' encumbered and unencumbered assets, made obtaining third party financing improbable, if not impossible.

13. Given these facts, even if a third party DIP lender were to materialize, a third party DIP loan would have resulted in a long, costly, and likely losing priming fight with the First Lien

Lenders. Equally important, any attempt by the Debtors to seek a nonconsensual priming of the First Lien Lenders would have undermined the support of the Consenting Creditors for the broader restructuring and could have curtailed the Debtors' ability to pursue and consummate the Prepackaged Plan, delaying the Debtors' exit from chapter 11 to the significant detriment of all of the Debtors' stakeholders.

14. I believe that the marketing process used to obtain the DIP Financing was appropriate in light of the Debtors' liquidity position and existing capital structure. During the Debtors' extensive negotiations with the Consenting Creditors in connection with a consensual restructuring transaction, the Company and its advisors discussed the Company's need for, and the potential terms of, a DIP financing with the Company's existing First Lien Lenders. Pursuant to the Restructuring Support Agreement, dated June 12, 2020 (the "**Restructuring Support Agreement**"), certain of the First Lien Lenders agreed to provide the Debtors with a backstop of the DIP Financing, which financing is necessary to implement the restructuring transactions contemplated by the Restructuring Support Agreement.

15. Despite the aforementioned challenges associated with obtaining third-party DIP financing, Houlihan engaged in discussions with certain alternative financing sources to ensure that no third party would be willing to provide the Debtors with DIP financing on better terms than those offered by the First Lien Lenders. Given the First Lien Lenders' insistence that they would not consent to a DIP facility that primed their existing prepetition liens, Houlihan focused their marketing efforts on securing a junior DIP facility. Houlihan contacted and engaged with nine (9) financial institutions to solicit offers to provide the Debtors with DIP financing on a junior lien basis and/or collateralized only by unencumbered collateral. None of the third parties contacted were willing to provide a DIP financing proposal to the Debtors.

16. Having received only the DIP financing proposal from the Consenting Creditors, the Debtors and their professionals actively negotiated with the Consenting Creditors to secure favorable terms, and were ultimately able to obtain concessions on a number of key provisions. The Debtors ultimately agreed to a reasonable proposal from the Consenting Creditors that meets the Company's liquidity needs at this critical juncture and secures the support of the Consenting Creditors for the restructuring transactions contemplated by the Restructuring Support Agreement. The Debtors' agreement with the Consenting Creditors was memorialized in the DIP and Exit Facility Term Sheet attached as Exhibit C to the Restructuring Support Agreement and is set forth in the proposed DIP Credit Agreement.

IV.
Need for Interim Relief

17. The Debtors seek immediate approval of the DIP Facility on an interim basis solely to the extent set forth in the Interim Order. The Debtors have minimal cash on hand and anticipate that the commencement of these chapter 11 cases will significantly and immediately increase the demands on their liquidity as a result of, among other things, the costs of administering these chapter 11 cases, implementing critical restructuring initiatives, and addressing key constituents' concerns regarding the Debtors' financial health and ability to continue operations in light of these chapter 11 cases. Accordingly, the Debtors have an immediate need for access to liquidity to, among other things, continue the operation of their business, maintain important relationships with customers, meet payroll, procure goods and services from vendors and suppliers, and otherwise satisfy their working capital and operational needs, all of which are required to preserve and maintain the Debtors' going concern value for the benefit of all parties in interest.

V.
Approval of the DIP Facility is in the Best Interest of the Debtors

18. The DIP Facility is on terms that are fair and reasonable under the circumstances. The proposed facility consists of a $60 million DIP Facility to be funded through an escrow account and retained subject to the Borrower's issuance of a Withdrawal Notice and satisfaction of certain withdrawal conditions, of which up to $30 million will be available to the Debtors upon entry of the Interim DIP Order and an additional $30 million available upon entry of the Final DIP Order. The DIP Facility is secured by consensual, first priority priming liens on substantially all of the Debtors' assets (subject only to certain permitted prepetition liens and a customary carve out for professional fees). The proceeds of the DIP Facility will be used to provide working capital for, and the other general corporate purposes of, the Debtors, including chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, Adequate Protection Payments, and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented in accordance with the Restructuring Support Agreement.

19. The Debtors, with the assistance of their advisors, carefully reviewed the proposed DIP Financing and vigorously negotiated the salient terms with the Consenting Creditors and their advisors. In addition to the many advantages provided to the Debtors in maintaining holistic support from the Consenting Creditors for the Debtors' restructuring, certain specific benefits to the Debtors from entering into the DIP Facility include the Consenting Creditors' offer to "roll" the DIP Financing obligations into a first-out exit term loan facility that will not mature until December 2024.

20. Borrowings and disbursements from the DIP Facility will be made pursuant to the terms of the DIP Credit Agreement, and the DIP Facility will mature three months after the Petition

Date subject to an extension of one additional month with the consent of the Required Lenders. The Debtors will be authorized to use Cash Collateral and the proceeds of the DIP Facility in accordance with the Approved Budget (subject to permitted variances). The Debtors' initial budget (the "**Initial Approved Budget**"), attached as Exhibit B to the DIP Motion, reflects the anticipated cash receipts and anticipated disbursements that the Debtors will incur for each calendar week during the period from the Petition Date through and including the end of the thirteenth calendar week following the Petition Date. I believe that the Initial Approved Budget provides reasonable projections of the Company's financial outlay. The DIP Facility also contemplates certain financial monitoring covenants, including agreements by the Debtors to (i) update or supplement the Approved Budget not less than once every four weeks, (ii) provide bi-weekly variance reports to the DIP Lenders, and (iii) deliver supplemental Cash Flow Forecasts every four weeks. These covenants are reasonable and customary.

21. The DIP Facility provides for adequate protection to the Prepetition Secured Parties solely to the extent of any diminution in value in the form of: (i) replacement or new liens on and security interests in the DIP Collateral junior to the liens securing the DIP Facility, (ii) superpriority administrative expense claims that will have priority over any and all other administrative expenses, and (iii) the payment of reasonable and documented out-of-pocket fees and expenses payable to the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group. I believe that this adequate protection package is fair and reasonable, and what I would typically find granted in similar circumstances.

22. The financial terms proposed under the DIP Facility are comparable with terms for other postpetition financing for distressed companies in the industry, and the fees associated with the DIP Facility are customary and usual and in line with DIP Financing of this kind. Specifically,

the DIP Documents provide that interest will accrue interest at LIBOR (with a 1% floor) for a one-month period plus 7.5% *per annum*. The DIP Documents also contemplate that the Debtors will pay other fees and expenses to (i) the DIP Lenders, including a 3% commitment fee and a 2.5% backstop fee, (ii) the DIP Agent, including an annual administrative fee and a seasoning fee, and (iii) the DIP Escrow Agent, including an annual administration fee (collectively, the "**DIP Fees**"). The fees and interest to be paid in accordance with the DIP Financing, along with the entirety of the DIP Documents, were subject to good faith, arm's-length negotiations among the Debtors and the DIP Lenders, and the fees and interest were required by the DIP Lenders as consideration for the extension of postpetition financing. Based on my experience and under the circumstances of these cases, these fees, costs, and rates are reasonable, customary, and appropriate under the circumstances, particularly in light of the consideration given therefor and the lack of viable options available.

23. The DIP Fees, together with the other provisions of the DIP Documents, represent the most favorable terms to the Debtors on which the DIP Lenders would agree to make the DIP Facility available. The Debtors considered the DIP Fees when determining in their sound business judgment whether the DIP Documents constituted the best terms on which the Debtors could obtain sufficient DIP Financing necessary to continue their operations and prosecute their chapter 11 cases. The Debtors believe paying the DIP Fees in order to obtain such DIP Financing is in the best interests of the Debtors' estates, creditors and other parties in interest. Accordingly, the Court should authorize the Debtors to pay the DIP Fees.

24. It is my opinion that moving forward with the DIP Financing is in the Debtors' best interests and a proper exercise of the Debtors' business judgment and that the terms of the DIP Facility are reasonable under the circumstances, particularly in light of the lack of interest in the

market to provide the Debtors with postpetition financing on a junior basis. It is also my opinion that the DIP Facility is the product of good-faith, arm's-length negotiations and will benefit all stakeholders in the chapter 11 cases. Absent authority to enter into and access the DIP Facility, even for a limited period of time, the Debtors will be unable to continue operating their business and providing their learning management tools to customers, resulting in a deterioration of value and immediate and irreparable harm to the Debtors' estates. Accordingly, the Debtors' need for the DIP Facility, coupled with both the advantageous terms of the DIP Facility and the attendant benefits of securing a comprehensive restructuring, support the approval of the DIP Financing.

Conclusion

25. Based on my experience and observation, the terms of the DIP Facility are reasonable under the circumstances and are generally consistent with market terms for companies facing similar circumstances as those faced by the Debtors. Accordingly, based on the foregoing, the DIP Facility is the best and only actionable financing option available to the Debtors, and the Debtors' entry into the DIP Facility will benefit the Debtors' estates and their creditors.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 14, 2020

By: */s/ Christopher A. Wilson*
Name: Christopher A. Wilson
Title: Managing Director
Houlihan Lokey Capital, Inc.

EXHIBIT "E"

Supplemental Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief

(*See attached*)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*,	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**

SUPPPLEMENTAL DECLARATION OF JOHN FREDERICK IN SUPPORT OF DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY RELIEF

I, John Frederick, pursuant to section 1746 of title 28 of the United States Code, hereby declare under penalty of perjury under the laws of the United States that the following is true to the best of my knowledge, information, and belief:

1. I am the Chief Administrative Officer ("**CAO**") and a member of the board of directors (the "**Board**") of Debtor Skillsoft Corporation, a Delaware corporation ("**Skillsoft**" and, together with Debtor Pointwell Limited and the direct and indirect subsidiaries of Pointwell Limited, the "**Company**"). Additional information regarding my role at the Company and my professional background, as well as information about the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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[Doc. No. 15] (the "**First Day Declaration**"),[2] filed on the Petition Date and incorporated herein by reference.

2. I am knowledgeable and familiar with the Debtors' and the Company's day-to-day operations, businesses and financial affairs, books and records, and the circumstances leading to the commencement of these chapter 11 cases.

3. Except as otherwise indicated herein, the facts set forth in this supplemental declaration (this "**Declaration**") are based upon my personal knowledge, my review of relevant documents, information provided to me by employees of or advisors to the Company, or my opinion based upon my experience, knowledge, and information concerning the Company's operations. If called upon to testify, I would testify competently to the facts set forth in this Declaration on that basis.

4. On the date hereof, the Debtors filed the *Motion of Debtors for Entry of an Order (I) Authorizing The Debtors to Enter Into an Exclusivity Letter With the Interested Party, and (2) Perform Their Obligations Thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief* [Doc. No. 34 (sealed), 35 (redacted)] (the "**Exclusivity Letter Motion**"). I am familiar with the contents of the Exclusivity Letter Motion, and I believe that the relief sought therein is necessary to allow the Debtors to preserve optionality for a potential value-maximizing transaction.

I.
Preliminary Statement

5. With the support of the Consenting Creditors, the Debtors filed voluntary petitions for chapter 11 relief, along with a variety of procedural and substantive First Day

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

Pleadings to minimize the adverse effects of the commencement of the chapter 11 cases, beginning on the Petition Date. The Debtors also began soliciting votes on the Prepackaged Plan before filing their chapter 11 petitions. The Company is in ongoing negotiations (with the consent of the Consenting Creditors) with the Interested Party regarding a potential Alternative Transaction (as defined in the Restructuring Support Agreement). Notwithstanding such negotiations, the Company commenced these chapter 11 cases (with the support of the Consenting Creditors) and is seeking to implement the Restructuring contemplated by the Restructuring Support Agreement in light of the Company's deteriorating liquidity position, immediate need to access the DIP Facility, and the need for the certainty of a fully-agreed reorganization path if the Company does not consummate a transaction with the Interested Party.

6. The Debtors and the Consenting Creditors wish to continue negotiations with the Interested Party as successful negotiations with the Interested Party may lead to an Alternative Transaction that will be value-maximizing for the Company and its creditors. I understand that the failure of the Debtors to enter into the Exclusivity Letter in a timely manner may cause the Interested Party to reconsider its interest in a potential purchase of the Debtors' businesses, thus foreclosing a potentially value-maximizing option for the Debtors.

II.
Exclusivity Letter Motion

7. The Debtors request authority to enter into that certain letter agreement granting exclusivity to a potential purchaser of the Debtors' business (the "**Interested Party**" and such letter agreement, the "**Exclusivity Letter**") and for the Debtors to perform their obligations under the Exclusivity Letter. The Exclusivity Letter allows the Debtors and the Interested Party to continue negotiating a potential transaction which, if consummated, could maximize the value of the Debtors' estates.

8. Prior to the Petition Date, the Debtors and the Interested Party explored the potential sale of substantially all of the Debtors' business (the "**Potential Transaction**"). However, the parties were unable to finalize a definitive transaction in the time necessary to meet the Debtors' liquidity needs. Accordingly, the Debtors entered into the Restructuring Support Agreement and began implementing the transactions contemplated therein. The Debtors, with the support of the Consenting Creditors, also continued negotiations with the Interested Party, which resulted in agreement to the terms of the Exclusivity Letter.

9. The Exclusivity Letter allows the Debtors to continue negotiating in good faith with the Interested Party and to conduct diligence regarding the Potential Transaction. I understand that the Exclusivity Letter obligates the Debtors to pay the Interested Party an amount to cover the Interested Party's fees and expenses in connection with its diligence of the Potential Transaction (the "**Upfront Payment Amount**"). However, I understand that the Debtors are only obligated to pay the Upfront Payment Amount if the Debtors and the Interested Party enter into a definitive agreement for the Potential Transaction.

10. I believe it is a sound exercise of the Debtors' business judgment to enter into the Exclusivity Letter and to perform their obligations thereunder, including the obligation to pay the Upfront Payment Amount, if required, because doing so is necessary to preserve the option to pursue a potentially value-maximizing transaction. Furthermore, it is my understanding that the Interested Party will not pursue further negotiations or diligence without the Debtors' entry into the Exclusivity Letter and performance of their obligations thereunder. To maximize the efficiency of the Debtors' Restructuring, it is essential for the Debtors and the Interested Party to advance their negotiations and the Interested Party's diligence as quickly as possible. As a result, I believe that entry into the Exclusivity Letter as soon as possible is necessary to preserve the

Debtors' ability to negotiate and potentially consummate the Potential Transaction. It is my understanding that the Consenting Creditors support the Debtors' entry into the Exclusivity Letter.

11. Moreover, the Debtors require immediate authority to enter into the Exclusivity Letter. If the Debtors delay entering into the Exclusivity Letter, the Interested Party may stop negotiating, resulting not only in the loss of a value maximizing transaction, nullifying the time and money spent negotiating and performing due diligence for the Potential Transaction.

12. For all of the foregoing reasons, I believe entry into the Exclusivity Letter is in the Debtors' sound business judgment and in the best interests of the estates, because it will allow the Debtors to continue the pursuit of an alternative transaction to the benefit of all of their stakeholders.

III.
Conclusion

13. This declaration illustrates the background that precipitated the Debtors' business decision to agree to the terms of the Exclusivity Letter and demonstrates the critical need for the Debtors to obtain the relief requested in the Exclusivity Letter Motion.

I declare under penalty of perjury that, after reasonable inquiry, the foregoing is true and correct to the best of my knowledge, information, and belief.

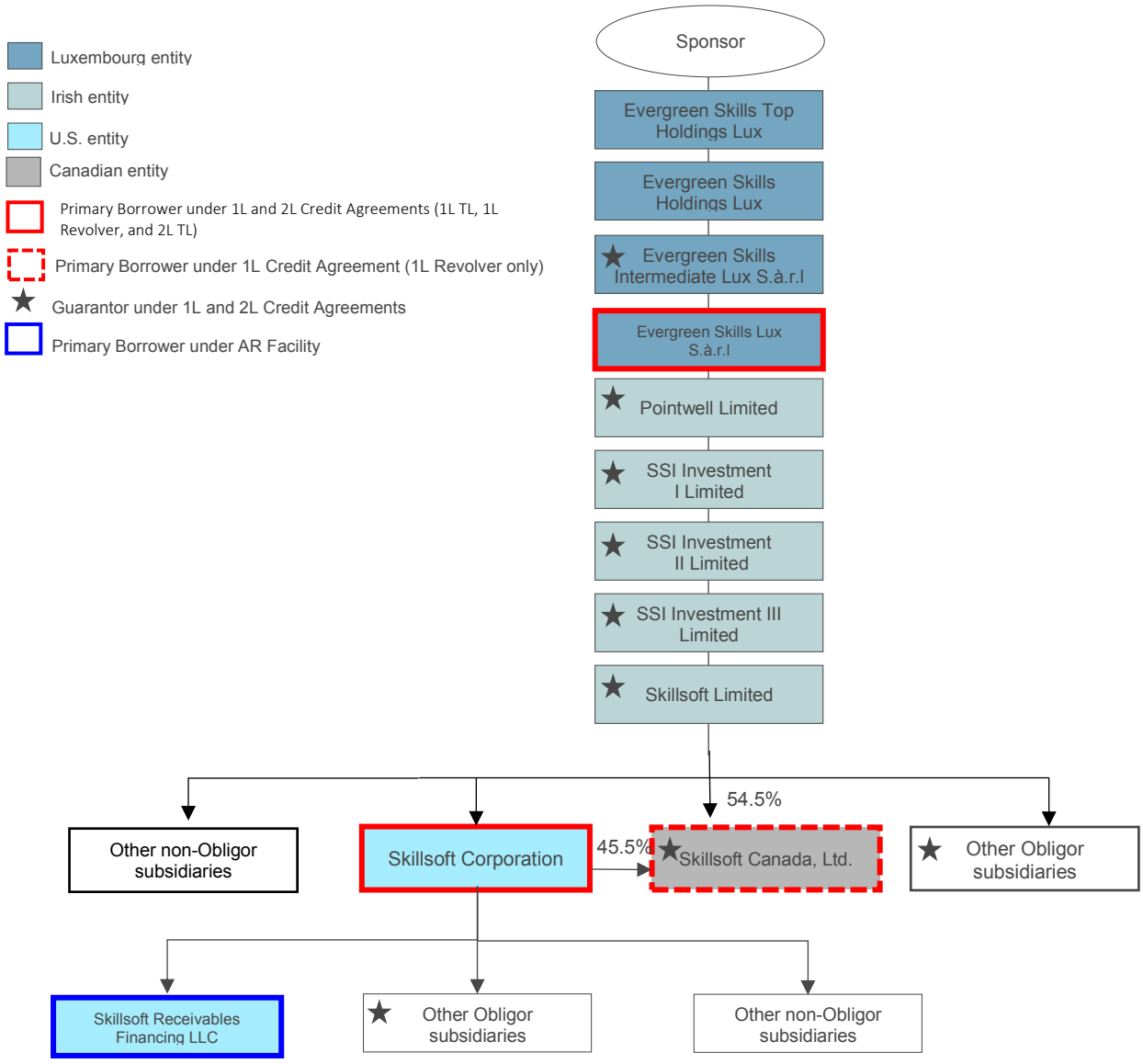
Executed this 15th day of June, 2020

/s/ *John Frederick*
John Frederick
Chief Administrative Officer

Skillsoft Corporation and its Debtor affiliates

EXHIBIT "F"

Abridged corporate organizational chart of Skillsoft Corporation and its affiliates



*Note - all entities wholly owned unless otherwise specified

EXHIBIT "G"

Skillsoft Canada's information card from the New Brunswick Corporate Affairs Registry

(*See attached*)

Corporate Affairs Registry Database

Help

The credit card transaction was successful

- Transaction Amount: **$3.45**
- Transaction #: **5977521**
- Authorization #: **09202I**
- Date of Transaction: **2020-05-07 09:56:13**
- HST #: **10786 3888 RT0006**

We recommend that you print this screen and retain it with your records

New Search | Previous

General Information

Reference Number:	668209
Name:	SKILLSOFT CANADA, LTD.
Registration Date:	2013-02-01
Category Code:	60
Category:	corporation – Business Corporations Act
Status Code:	A
Status:	Active
Last Status Change Date:	2019-05-21

Available Documents

Click here to view electronic documents for this record.
Click here to order paper copies of documents.
Click here to order certified copies of documents.

Annual Return Information

Last Annual Return Filed:	2020

Registered Office

Address:	570 Queen Street Suite 600 Fredericton NB E3B 6Z6

Directors

Name:	Jenkins, Bobby
Address:	300 Innovative Way Suite 201 Nashua NH United States 03062
Name:	Porto, Gregory J.
Address:	300 Innovative Way Suite 201 Nashua NH United States 03062

Predecessor Corporations

Ref No	Name
610690	SKILLSOFT CANADA, LTD.
664234	Element K Canada, Inc.

EXHIBIT "H"

Copy of the redacted version of the *Restructuring Support Agreement*

(*See attached*)

RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (collectively with the Reorganization Term Sheet (as defined below) and all other exhibits, schedules and attachments hereto and thereto, each as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, this "**Agreement**"), dated as of June 12, 2020, is entered into by and among:

(a) Pointwell Limited, a private limited company incorporated in Ireland, having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 and registered under number 540778 (the "**Parent**"), and each entity listed on Schedule 1 to the Reorganization Term Sheet, each such entity a subsidiary or affiliate of the Parent (each, a "**Company Party**" and, collectively with the Parent, the "**Company**" or the "**Debtors**"); and

(b) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**First Lien Credit Agreement**"; the term loans issued thereunder, the "**First Lien Term Loans**"; the revolving loans issued thereunder, the "**First Lien Revolving Loans**" and, together with the First Lien Term Loans, the "**First Lien Debt**") among Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054 ("**Holdings**"), Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790 (the "**Lux Borrower**"), Skillsoft Canada Ltd, a New Brunswick corporation (the "**Canadian Borrower**"), and Skillsoft Corporation (the "**U.S. Borrower**" and, collectively with the Lux Borrower and the Canadian Borrower, the "**First Lien Borrowers**"), the administrative and collateral agent party thereto (in such capacity, the "**First Lien Agent**"), the lenders party thereto from time to time (the "**First Lien Lenders**" and, the undersigned First Lien Lenders (together with their respective successors and permitted assigns) and any subsequent First Lien Lender that becomes party hereto in accordance with the terms hereof, each in its capacity as a First Lien Lender, each individually, a "**Consenting First Lien Lender**" and, collectively, the "**Consenting First Lien Lenders**"), and the other parties thereto from time to time; and

(c) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain Second Lien Credit Agreement, dated as of April 28, 2014, (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Second Lien Credit Agreement**" and, together with the First Lien Credit Agreement, the "**Credit Agreements**"; the term loans issued under the Second Lien Credit Agreement, the "**Second Lien Debt**" and, together with the First Lien Debt, the "**Indebtedness**") among Holdings, the Lux Borrower, the U.S. Borrower (together with the Lux Borrower in their capacity borrowers under the Second Lien Credit Agreement, the "**Second Lien Borrowers**"), and the administrative and collateral agent party thereto (in such capacity, the "**Second Lien Agent**" and, together with the First Lien Agent, the "**Agents**"), the lenders party thereto from time to time (the "**Second Lien Lenders**" and, the undersigned Second Lien Lenders (together with their respective successors and permitted assigns) and any subsequent Second Lien Lender that becomes

party hereto in accordance with the terms hereof, each in its capacity as a Second Lien Lender, each individually, a "**Consenting Second Lien Lender**" and, collectively, the "**Consenting Second Lien Lenders**" and, together with the Consenting First Lien Lenders, the "**Consenting Creditors**").

The Company Parties and each Consenting Creditor, and any subsequent Person that becomes a party hereto in accordance with the terms hereof are referred to herein collectively as the "**Parties**" and each individually as a "**Party**" until the end of the Support Period applicable to it. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Restructuring Term Sheets (defined below), as applicable.

RECITALS

WHEREAS, the Parties have negotiated in good faith at arm's length and agreed to enter into certain transactions in furtherance of a global restructuring of the Company's capital structure (the "**Restructuring**"), which is anticipated to be implemented through, among other things, a plan of reorganization (as may be supplemented, amended, or modified from time to time, the "**Plan**" and any supplement(s) thereto, as such may be supplemented, amended, or modified from time to time, the "**Plan Supplement**"), a corresponding disclosure statement in respect of the Plan (as may be supplemented, amended, or modified from time to time, the "**Disclosure Statement**"), a solicitation of votes thereon (the "**Solicitation**" and the materials with respect thereto, the "**Solicitation Materials**"), and the commencement by the Parent and each Company Party of a voluntary case (the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**");

WHEREAS, as of the date hereof, the Consenting First Lien Lenders, in the aggregate, hold, manage, or control approximately 81.2% of the aggregate outstanding principal amount of the First Lien Debt, including approximately 84.1% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 33.3% of the aggregate outstanding principal amount of the First Lien Revolving Loans;

WHEREAS, as of the date hereof, the Consenting Second Lien Lenders, in the aggregate, hold, manage, or control approximately 83.5% of the aggregate outstanding principal amount of the Second Lien Debt;

WHEREAS, the Company and certain of the Consenting First Lien Lenders (in such capacity, the "**DIP Lenders**") have reached an agreement regarding the Company's entry into the DIP Credit Agreement (defined below);

WHEREAS, the Restructuring contemplates pursuing a recapitalization transaction in accordance with the terms of the Reorganization Term Sheet (defined below); and

WHEREAS, subject to the terms and conditions set forth herein, the Parties desire to express to each other their mutual support and commitment in respect of the matters set forth in this Agreement, including the Restructuring Term Sheets;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound on a several but not joint basis, agree as follows:

1. **Certain Definitions.**

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

(a) "**Ad Hoc Crossholder Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit A** hereto (together with their respective successors and permitted assigns) represented by Milbank LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 38.50% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 36.76% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 66.67% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 79.07% of the aggregate outstanding principal amount of the Second Lien Debt.

(b) "**Ad Hoc First Lien Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit B** hereto (together with their respective successors and permitted assigns) represented by Gibson, Dunn & Crutcher LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 51.28% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 54.44% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 0.00% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 6.36% of the aggregate outstanding principal amount of the Second Lien Debt.

(c) "**Alternative Transaction"** means any new money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, winding up, assignment for the benefit of creditors, transaction, debt investment, equity investment, joint venture, partnership, sale, plan proposal, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more of the Parent, the Company Parties or a non-Debtor subsidiary of Parent or the debt, equity, or other interests in any one or more of the Parent or a subsidiary of Parent that is an alternative to the Restructuring (including any of the Restructuring Transactions), the Plan and the transactions contemplated by the Plan.

(d) "**Board Incentive Plan**" or "**BIP**" means a post-Effective Date board of directors incentive plan, consistent in all material respects with the terms set forth on the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(e) "**Business Day**" means any day, other than a Saturday, Sunday, or "legal holiday" (as defined in Rule 9006(a) of the Federal Rules of Bankruptcy Procedure).

(f) "**Canadian Court**" means the Court of Queen's Bench of New Brunswick (Trial Division).

(g) "**Canadian Final DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Final DIP Order in Canada.

(h) "**Canadian Initial Recognition Order**" means an order of the Canadian Court, which, among other things, recognizes the Chapter 11 Cases as a "foreign main proceeding" under Part IV of the CCAA, commences the Canadian Recognition Proceeding and grants a stay in Canada.

(i) "**Canadian Interim DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which, among other things, recognizes the Interim DIP Order in Canada and provides for a super priority charge over the collateral of the Canadian Borrower and collateral located in Canada of the other Company Parties in respect of the DIP Lenders' claims. For the avoidance of doubt, the Canadian Interim DIP Recognition Order may be part of the Canadian Supplemental Order.

(j) "**Canadian Plan Confirmation Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Confirmation Order in Canada.

(k) "**Canadian Recognition Orders**" means, collectively, the Canadian Initial Recognition Order, the Canadian Interim DIP Recognition Order, the Canadian Supplemental Order, the Canadian Final DIP Recognition Order, the Canadian Plan Confirmation Recognition Order and any other order of the Canadian Court in the Canadian Recognition Proceeding.

(l) "**Canadian Recognition Proceeding**" means a proceeding commenced in the Canadian Court to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring.

(m) "**Canadian Supplemental Order"** means an order of the Canadian Court, which grants customary additional relief in the Canadian Recognition Proceeding.

(n) "**CCAA**" means the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended.

(o) "**Claim**", with respect to Parent or any Company Party, has the meaning set forth in section 101(5) of the Bankruptcy Code.

(p) "**Confirmation Order**" means the order of the Bankruptcy Court confirming the Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Disclosure Statement).

(q) "**Consenting Creditor Advisors**" means Consenting Creditor Counsel, Greenhill & Co., LLC, as financial advisor to the Ad Hoc First Lien Group, Moelis & Company LLC, as financial advisor to the Ad Hoc Crossholder Group, and any other professional advisors (including non-U.S. counsel and local counsel) that may be retained from time to time by the Ad Hoc First Lien Group or the Ad Hoc Crossholder Group.

(r) "**Consenting Creditor Counsel**" means Gibson, Dunn & Crutcher LLP, as counsel to the Ad Hoc First Lien Group, and Milbank LLP, as counsel to the Ad Hoc Crossholder Group.

(s) "**Definitive Documents**" means (i) this Agreement, (ii) the Plan and the Plan Supplement, (iii) the Disclosure Statement and the Solicitation Materials, (iv) the Confirmation Order, (v) the motion seeking approval by the Bankruptcy Court of the DIP Facility, the applicable proposed DIP Orders related thereto, and the DIP Financing Documents, (vi) the New Corporate Governance Documents, (vii) any material document implementing the Restructuring, including, the Pledge Enforcement Documents, the Canadian Recognition Orders, any material motion, brief, or other pleading filed by the Company in the Chapter 11 Cases or by the Company or its "foreign representative" (or equivalent) in any recognition or ancillary proceeding; (viii) the Exit Financing Documents, (ix) the Exit AR Financing Documents, (x) the Warrant Agreements, (xi) the Incentive Plans, and (xii) any material motion or pleading seeking approval or confirmation of any of the foregoing documents, including the motion to approve the Disclosure Statement, the brief in support of confirmation, and pleadings in support of recognition in a Recognition Proceeding, and (xiii) any proposed order to approve any of the foregoing.

(t) "**DIP Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the DIP Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(u) "**DIP Facility**" means the debtor-in-possession facility to be provided to the Company pursuant to (x) the DIP Credit Agreement and (y) the terms and conditions of the interim and final orders of the Bankruptcy Court approving the same (respectively, the "**Interim DIP Order**" and the "**Final DIP Order**" and, collectively, the "**DIP Orders**").

(v) **"DIP Financing Documents**" means the DIP Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith and the DIP Orders, in each case, in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(w) "**DIP and Exit Facility Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit C**.

(x) "**Effective Date**" means the date upon which all conditions to the effectiveness of the Plan have been satisfied or waived in accordance with the terms thereof and the Plan becomes effective.

(y) "**Evergreen Skills Entities**" means Holdings, the Lux Borrower, Evergreen Skills Holding Lux, and Evergreen Skills Top Holding Lux.

(z) "**Existing AR Credit Agreement**" means that certain Credit Agreement (as may be further amended, restated, amended and restated, waived, supplemented, or otherwise modified from time to time), dated as of December 20, 2018, among Skillsoft Receivables

Financing LLC, a Delaware Limited Liability Company, the lenders party thereto and CIT Bank, N.A., as administrative agent, collateral agent and accounts bank ("**CIT**").

(aa) "**Exit AR Credit Agreement**" means the credit agreement evidencing the Exit AR Facility on the terms set forth in the Reorganization Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(bb) "**Exit AR Financing Documents**" means the Exit AR Credit Agreement, as well as related agreements, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(cc) "**Exit Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the Exit Credit Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(dd) "**Exit Credit Facility**" means the term loan facility to be provided to the Company on the Effective Date pursuant to the Exit Credit Agreement.

(ee) "**Exit Financing Documents**" means the Exit Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ff) "**Governance Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit E**.

(gg) "**Incentive Plans**" means the Board Incentive Plan and the Management Incentive Plan.

(hh) "**Interest**" means any equity interest (as defined in section 101(16) of the Bankruptcy Code) of the Parent or any Company Party, including all ordinary shares, units, common stock, preferred stock, membership interests, partnership interests or other instruments, evidencing any fixed or contingent ownership interest in the Parent or any Company Party, whether or not transferable, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest in the Parent or any Company Party, that existed immediately before the Effective Date.

(ii) "**Management Incentive Plan**" or "**MIP**" means a post-Effective Date management incentive plan consistent in all material respects with the terms in the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(jj) "**New Board**" means the board of directors of Newco Parent.

(kk) "**New Corporate Governance Documents**" means the applicable Organizational Documents and stockholders agreement (if applicable) of Newco Parent, in each

case, consistent with the Governance Term Sheet and in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ll) "**Newco Borrower**" means a newly-formed entity organized under the laws of Luxembourg that will directly own 100% of the equity interests of the Reorganized Parent.

(mm) "**Newco Equity**" means the equity interests of Newco Parent to be issued in connection with implementation of the Plan.

(nn) "**Newco Parent**" means a newly-formed entity organized under the laws of Luxembourg that will directly or indirectly own 100% of the equity interests of the Reorganized Parent and be treated as a corporation for tax purposes, as set forth in the Restructuring Transaction Steps.

(oo) "**Organizational Documents**" means, of any Person, the forms of certificates or articles of incorporation, certificates, or articles of formation, bylaws, constitutions, limited liability company agreements, or other forms of organization documents of such Person.

(pp) "**Person**" means any "person" as defined in section 101(41) of the Bankruptcy Code, including any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

(qq) "**Pledge Enforcement**" means the appointment of a receiver (the "**Receiver**") in Ireland and/or exercise of other rights and remedies by the Collateral Agent (approved by the Parent and Consenting First Lien Lenders constituting the Required Lenders under the First Lien Credit Agreement with respect to (A) the entire share capital of Parent (the "**Pointwell Share Capital**"), which has been pledged to (x) the First Lien Lenders pursuant to that certain First Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**First Lien Share Charge**"), between the Lux Borrower and the First Lien Agent and (y) the Second Lien Lenders pursuant to that certain Second Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**Second Lien Share Charge**"), between the Lux Borrower and the Second Lien Agent, and (B) certain intercompany obligations owed to the Lux Borrower by the Parent (the "**Pointwell Intercompany Debt**") which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.

(rr) "**Pledge Enforcement Documents**" means (i) a letter from the required number of First Lien Lenders instructing the First Lien Agent to accelerate and demand repayment of the First Lien Debt and appoint the Receiver; (ii) a letter from the First Lien Agent accelerating and demanding repayment of the First Lien Debt; (iii) the instrument of appointment for the Receiver; (iv) a sale and purchase agreement governing the sale and purchase of the Pointwell Share Capital (governed by Irish law); (v) an assignment agreement of the Pointwell Intercompany

Debt; and (vi) any ancillary documentation that may be necessary or desirable to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and/or Share and Intercompany Debt Transfer, in each case in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

(ss) "**Recognition Proceeding**" means any proceeding commenced in a jurisdiction outside of the United States to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring, including the Canadian Recognition Proceeding.

(tt) "**Reorganized Debtors**" means the Parent and each of the Company Parties as reorganized on the Effective Date in accordance with the Plan.

(uu) "**Reorganized Parent**" means the Parent as reorganized on the Effective Date in accordance with the Plan.

(vv) "**Reorganization Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit D**.

(ww) "**Requisite Creditors**" means the Requisite First Lien Lenders and the Requisite Second Lien Lenders.

(xx) "**Requisite First Lien Lenders**" means, as of the date of determination, Consenting First Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the First Lien Debt then held by all Consenting First Lien Lenders.

(yy) "**Requisite Second Lien Lenders**" means, as of the date of determination, Consenting Second Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the Second Lien Debt then held by all Consenting Second Lien Lenders.

(zz) "**Restructuring Term Sheets**" means, collectively, the Reorganization Term Sheet, the DIP and Exit Facility Term Sheet, the Governance Term Sheet, and the Warrant Term Sheet, as applicable.

(aaa) "**Restructuring Transaction Steps**" means a memorandum of transaction steps (including any schedules and exhibits thereto) in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

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

(ccc) "**Share and Intercompany Debt Transfer**" means the sale or transfer (and any steps taken to effect such sale or transfer) and/or exercise of other rights and remedies by the First Lien Agent of or in relation to the Pointwell Share Capital and the Pointwell Intercompany Debt by the Receiver to Newco Borrower in accordance with the Pledge Enforcement Documents.

(ddd) "**Sponsor**" means Charterhouse Capital Partners LLP and its affiliates (excluding the Company), including CCP IX LP No. 1, CCP IX LP No. 2, and CCP IX Co-Investment LP.

(eee) "**Sponsor Side Agreement**" means an agreement evidencing the Sponsor's and the Evergreen Skills Entities' consent to the Restructuring by and among the Company, the Sponsor, the Evergreen Skills Entities, and the Consenting Creditors party thereto.

(fff) "**Support Effective Date**" means the date on which (i) counterpart signature pages to this Agreement shall have been executed and delivered by (A) the Company and (B) Consenting Creditors (x) holding at least 66⅔% of the aggregate outstanding principal amount of the First Lien Debt and (y) holding at least 66⅔% of the aggregate outstanding principal amount of the Second Lien Debt and (ii) all invoiced and outstanding reasonable and documented fees and expenses (for which invoices have been received by the Company at least one (1) Business Day prior to the date the conditions in subsection (i) are satisfied) of each of the Consenting Creditor Advisors have been paid in full.

(ggg) "**Support Period**" means, with respect to each Party, the period commencing on the Support Effective Date and ending on the earlier of the (i) date on which this Agreement is terminated in accordance with Section 5 hereof with respect to that Party and (ii) the Effective Date.

(hhh) "**Voting Deadline**" means 5:00 p.m. (prevailing Eastern Time) on June 24, 2020 (or such other time as may be mutually agreed by the Company and the Requisite Creditors).

(iii) "**Warrant Agreements**" means warrant agreements evidencing the warrants to be issued on the Effective Date on the terms set forth in the Warrant Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(jjj) "**Warrant Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit F**.

2. **Implementation; Plan of Reorganization; Recognition Proceedings.**

(a) Restructuring Term Sheets. The Restructuring Term Sheets are expressly incorporated herein and made a part of this Agreement. The terms and conditions of the Restructuring are set forth in the Restructuring Term Sheets; *provided, however*, that the Restructuring Term Sheets are supplemented by the terms and conditions of this Agreement. In the event of any inconsistencies between the terms of this Agreement and the Restructuring Term Sheets, the terms of the applicable Restructuring Term Sheet shall govern.

(b) Definitive Documents. Each of the Definitive Documents shall (i) contain terms and conditions consistent in all material respects with this Agreement, the Restructuring Term Sheets, and the Restructuring Transaction Steps and (ii) otherwise (x) except with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the Requisite Creditors and the Company, or (y) with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(c) Milestones. The Company shall use commercially reasonable efforts to comply with each of the following milestones (each, a "**Milestone**" and, collectively,

the "**Milestones**"), as applicable, unless otherwise expressly and mutually agreed in writing among the Company and the Requisite Creditors:

(i) Chapter 11 Cases

(A) Solicitation. At or prior to 11:59 p.m. prevailing Eastern Time on June 14, 2020, the Company shall have commenced the Solicitation in accordance with section 1126(b) of the Bankruptcy Code;

(B) Commencement of the Chapter 11 Cases. Provided that the Support Effective Date has occurred, the Company hereby agrees that, as soon as reasonably practicable, but in no event later than 11:59 p.m. prevailing Eastern Time on June 14, 2020 (the "**Outside Petition Date**") (the date on which such filing actually occurs, the "**Petition Date**"), each of the Parent and the Company Parties shall commence the Chapter 11 Cases;

(C) Filing of the Plan and Disclosure Statement. No later than one (1) Business Day following the Petition Date, the Company shall file the Plan (the votes for which shall have already been solicited), the Disclosure Statement, and a motion seeking preliminary approval of the Disclosure Statement and requesting a combined hearing for approval of the Disclosure Statement and confirmation of the Plan with the Bankruptcy Court (the "**Prepack Scheduling Order**");

(D) DIP Financing and Cash Collateral Motion. No later than one (1) Business Day following the Petition Date, the Company shall file a motion with the Bankruptcy Court seeking interim and final authority to procure the DIP Facility and consensually use cash collateral, each in accordance with the DIP Orders;

(E) Interim DIP Order; Prepack Scheduling Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is three (3) Business Days after the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors) and the Prepack Scheduling Order (in form and substance reasonably acceptable to the Requisite Creditors);

(F) Final DIP Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is twenty-five (25) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order;

(G) Confirmation. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is sixty (60) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Confirmation Order, and, if applicable, an order approving the Disclosure Statement (the date on which the Bankruptcy Court enters the Confirmation Order, the "**Confirmation Date**"); and

(H) Effective Date. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is eighty (80) calendar days after the Petition Date (the "**Outside Date**"), the Effective Date shall have occurred.

(ii) Canadian Recognition Proceeding.

(A) Commencement of the Canadian Recognition Proceeding. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Interim DIP Order and Prepack Scheduling Order, the Canadian Borrower shall commence the Canadian Recognition Proceeding by filing, with the Canadian Court, a petition for the issuance of the Canadian Initial Recognition Order and Canadian Supplemental Order (which latter order shall include, for greater certainty, the Canadian Interim DIP Order), each in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors. The granting of the Canadian Recognition Orders shall be a condition precedent to the effectiveness of the Plan.

(B) Canadian Final DIP Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Final DIP Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court, of the Canadian Final DIP Recognition Order in the Canadian Recognition Proceeding (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(C) Canadian Plan Confirmation Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Confirmation Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court of the Canadian Plan Confirmation Recognition Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(d) Pledge Enforcement. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting Required Lenders as defined under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effectuate the Pledge Enforcement and take such other steps as may be necessary or desirable (including voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and the Share and Intercompany Debt Transfer, including entry into the Pledge Enforcement Documents.

3. **Agreements of the Consenting Creditors.**

(a) Voting; Support. Each Consenting Creditor agrees (on a several and not joint basis) that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall:

(i) timely vote or cause to be voted all of its Claims and Interests, to accept the Plan by delivering or causing to be delivered by its duly authorized, executed, and completed ballot or ballots, and consent to and, if applicable, not opt out of, the releases set forth in the Plan against each Released Party on a timely basis and, in any event, within five (5) Business Days following the commencement of the Solicitation;

(ii) not change or withdraw (or cause or direct to be changed or withdrawn) any such vote or release described in clause (i) or (ii) above; *provided, however*, that notwithstanding anything in this Agreement to the contrary, a Consenting Creditor's vote and release may, upon prior written notice to the Company and the other Parties, be revoked (and, upon such revocation, deemed void ab initio) by any Consenting Creditor at any time following (and solely in the event of) the termination of this Agreement with respect to such Consenting Creditor pursuant to Section 5 hereof;

(iii) timely vote (or cause to be voted) its Claims or Interests against and express opposition to any Alternative Transaction;

(iv) negotiate in good faith with the Company regarding the form and substance of the Definitive Documents and, as applicable, execute the Definitive Documents; *provided, however*, that no Consenting Creditor shall be obligated to agree to any modification of any document that is materially inconsistent with the Restructuring Term Sheets (unless otherwise consented to in accordance with Section 9 hereof);

(v) not directly or indirectly, through any Person (including any administrative agent or collateral agent) seek, solicit, propose, support, assist, engage in negotiations with or participate in the formulation, preparation, filing or prosecution of any Alternative Transaction or object to or take any other action that is inconsistent with or that would reasonably be expected to prevent, interfere with, delay or impede the Solicitation, approval of the Disclosure Statement, or confirmation and consummation of the Plan, any Recognition Proceeding, the Share and Intercompany Debt Transfer, the approval of and entry of the DIP Orders, or the consummation of the Restructuring;

(vi) (A) not direct any administrative agent or collateral agent (as applicable) to take any action inconsistent with such Consenting Creditor's obligations under this Agreement, and (B) if any administrative agent or collateral agent takes any action inconsistent with such Consenting Creditor's obligations under this Agreement, to use commercially reasonable efforts to cause such

administrative agent or collateral agent to cease, withdraw, and refrain from taking any such action; *provided* that each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent vis-à-vis the Company or any of its assets except as set forth in this Agreement;

(vii) support and take all actions necessary or reasonably requested by the Company to facilitate the Restructuring and the Solicitation, approval of and entry of the DIP Orders, confirmation and consummation of the Plan, any Recognition Proceeding, and the Share and Intercompany Debt Transfer within the timeframes contemplated by this Agreement; and

(viii) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring, negotiate in good faith appropriate additional, or alternative provisions to address any such impediment to the extent reasonably requested by the Company; *provided*, for the avoidance of doubt, that no such additional or alternative provisions shall modify any Consenting Creditor's economic treatment as set forth in the Restructuring Term Sheets without such Consenting Creditor's express written consent.

(b) Transfers. Each Consenting Creditor agrees that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall not sell, transfer, loan, issue, pledge, hypothecate, assign, or otherwise dispose of (each, a "**Transfer**"), directly or indirectly, in whole or in part, any of its Claims or Interests or any option thereon (including grant any proxies, deposit any Claims or Interests into a voting trust, or enter into a voting agreement with respect thereto), unless the transferee thereof either (i) is a Consenting Creditor or (ii) prior to such Transfer, agrees in writing for the benefit of the Parties to become a Consenting Creditor and to be bound by all of the terms of this Agreement applicable to Consenting Creditors (including with respect to any and all Claims or Interests it already may hold against or in the Company prior to such Transfer) by executing a joinder agreement, a form of which is annexed hereto as **Exhibit G** (the "**Joinder Agreement**"), and delivering an executed copy thereof within three (3) Business Days following such execution, to Weil, Gotshal & Manges LLP ("**Weil**"), as counsel to the Company, and the Consenting Creditor Counsel, in which event (A) the transferee (including the Consenting Creditor transferee, if applicable) shall be deemed to be a Consenting Creditor hereunder with respect to such transferred Claims or Interest and (B) the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred Claims or Interests. Each Consenting Creditor agrees that any Transfer of any Claims or Interests that does not comply with the terms and procedures set forth herein shall be deemed void ab initio, and the Company and each other Consenting Creditor shall have the right to enforce the voiding of such Transfer. Notwithstanding anything to the contrary herein, a Consenting Creditor may Transfer its Claims or Interests to an entity that is acting in its capacity as a Qualified Marketmaker[1] without the requirement that the Qualified

[1] As used herein, the term "**Qualified Marketmaker**" means an entity that (i) holds itself out to the public or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers Claims against or Interests in the Company (or enter with customers into long and short positions in Claims against or Interests in the Company), in its capacity as a dealer or marketmaker in Claims against or Interests in the

Marketmaker become a Party; *provided, however*, that (i) such Qualified Marketmaker must Transfer such right, title or interest by five (5) Business Days prior to the Voting Deadline and (ii) the transferee of such Company Claims or Interests from the Qualified Marketmaker shall become a Consenting Creditor hereunder and comply in all respects with the terms of this Agreement (including executing and delivering a Joinder) and (iii) notwithstanding anything to the contrary in this Agreement, to the extent that a Consenting Creditor, acting in its capacity as a Qualified Marketmaker, acquires any Company Claims or Interests from a holder of such claims that is not a Consenting Creditor, such Qualified Marketmaker may Transfer such Company Claims or Interests without the requirement that the transferee be or become a Consenting Creditor.

(c) Additional Claims or Interests. To the extent any Consenting Creditor (i) acquires additional Claims or Interests or (ii) Transfers any Claims or Interests, then, in each case, each such Consenting Creditor shall promptly (in no event less than three (3) Business Days following such acquisition or transaction) notify Weil and Consenting Creditor Counsel and each such Consenting Creditor agrees that such additional Claims or Interests shall be subject to this Agreement, and that, for the duration of the Support Period, it shall vote (or cause to be voted) any such additional Claims or Interests entitled to vote on the Plan in a manner consistent with Section 3(a) hereof (and in the event the Solicitation has already commenced and the Voting Deadline has not elapsed, as soon as reasonably practicable following the acquisition of such Claims or Interests but in any event on or prior to the Voting Deadline).

(d) Forbearance. During the Support Period, each Consenting Creditor agrees, to forbear from the exercise of its rights (including any right of set-off) or remedies it may have under any of the Credit Agreements and any agreement contemplated thereby or executed in connection therewith, as applicable, and under applicable U.S. or non-U.S. law or otherwise, in each case, with respect to any breaches, defaults, events of defaults or potential defaults by the Company or any other Credit Party (as defined in the Credit Agreements). Each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent against the Company or any of its assets except as necessary to effectuate the Restructuring (including the Plan, any Recognition Proceeding, the Pledge Enforcement or the Share and Intercompany Debt Transfer). For the avoidance of doubt, nothing in this paragraph (d) shall restrict or limit the Consenting Creditors or either the First Lien Agent or the Second Lien Agent from taking any action permitted or required to be taken hereunder for the purposes of the Plan, any Recognition Proceeding, the Pledge Enforcement (if applicable), or to effectuate the Share and Intercompany Debt Transfer.

4. **Agreements of the Company.**

(a) Covenants. Parent and each Company Party agrees that, for the duration of the Support Period, the Company shall:

(i) use commercially reasonable efforts to (A) pursue and consummate the Restructuring on the terms of, and in compliance with the Milestones set forth in, this Agreement, including by negotiating the Definitive Documents in good faith

Company and (ii) is, in fact, regularly in the business of making a market in claims against or interests in issuers or borrowers (including debt securities or other debt).

and (B) cooperate with the Consenting Creditors to obtain Bankruptcy Court approval of the Definitive Documents, as applicable, and to obtain any other required court or regulatory approvals in connection therewith;

(ii) not take any action, and not encourage any other person or entity to take any action, directly or indirectly that is inconsistent with, or is intended to interfere with the consummation of the Restructuring in accordance with this Agreement, or that would reasonably be expected to interfere with the acceptance or implementation of the Restructuring, this Agreement, or the Plan (except in accordance with clause (vii) below); *provided*, *however*, that the Company shall not be obligated to agree to any modification of any document that is inconsistent with the Restructuring Term Sheets or the Definitive Documents;

(iii) negotiate in good faith and use commercially reasonable efforts to execute and deliver any appropriate additional or alternative agreements to address any legal, financial, or structural impediment to the Restructuring or that are necessary to effectuate the Restructuring;

(iv) use commercially reasonable efforts to obtain those required court, regulatory, and/or third-party approvals required to consummate the Restructuring under applicable U.S. and non-U.S. law or otherwise;

(v) use commercially reasonable efforts to seek additional support for the Restructuring from other material stakeholders to the extent reasonably prudent;

(vi) not seek, solicit, or support any Alternative Transaction; *provided that*, if the Company receives a written or oral proposal or expression of interest regarding any Alternative Transaction, the Company shall notify (email being sufficient) Consenting Creditor Counsel of any such proposal or expression of interest, including the material terms thereof. For the avoidance of doubt, and notwithstanding any provisions to the contrary herein, in order to fulfil the fiduciary obligations of the officers of the Parent or any Company Party, the Company may receive proposals or offers for Alternative Transactions from other parties and provide due diligence and/or analyse and/or, subject to the Requisite Creditors' consent (which consent shall not be unreasonably withheld, conditioned, or delayed), negotiate, such Alternative Transactions without breaching or terminating this Agreement, and may terminate this Agreement in accordance with the terms hereof;

(vii) provide to the Consenting Creditor Counsel draft copies of all Definitive Documents and all material orders, motions or applications related to the Restructuring (including all "first day" and "second day" motions, applications and orders, the Plan, the Disclosure Statement, the Solicitation Materials, and a proposed Confirmation Order) that the Company intends to file with the Bankruptcy Court, in a Recognition Proceeding, or in connection with the Pledge Enforcement at least three (3) Business Days prior to the date when the Company intends to file any such document, motion, application, or proposed form of order

(provided that if delivery of such documents, motions, orders, or applications at least three (3) Business Days in advance is not reasonably practicable prior to filing, such document, motion, order, or application shall be delivered as soon as reasonably practicable prior to filing), and the Company shall consult in good faith with the Consenting Creditor Counsel regarding the form and substance of any such proposed filings;

(viii) subject to applicable professional responsibilities, in connection with the Chapter 11 Cases, any Recognition Proceeding, and the Pledge Enforcement, timely file a written objection to any motion or document filed by a third party seeking the entry of an order (A) directing the appointment of an examiner with expanded powers or a trustee, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, (C) dismissing any of the Chapter 11 Cases, (D) modifying or terminating the Company's exclusive right to file and/or solicit acceptances of a plan of reorganization, (E) enjoining the Pledge Enforcement (if applicable) or the Share and Intercompany Debt Transfer, (F) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or opposing the recognition of any order issued by the Bankruptcy Court, including the DIP Orders and the Confirmation Order, or (G) dismissing any Recognition Proceeding;

(ix) not modify the Plan, in whole or in part, in a manner that is not consistent with this Agreement in all material respects, and not file any motion, pleading, or Definitive Document with the Bankruptcy Court or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with this Agreement;

(x) operate its business in the ordinary course in a manner consistent with past practice in all material respects (other than any changes in operations (A) resulting from or relating to this Agreement or the filing or prosecution of the Chapter 11 Cases or (B) imposed by the Bankruptcy Court;

(xi) promptly provide written notice to the Consenting Creditors and the Consenting Creditor Advisors of (A) the occurrence, or failure to occur, of any event of which the Company has actual knowledge which occurrence or failure would be likely to cause any condition contained in this Agreement not to occur or become impossible to satisfy, (B) the receipt of any written notice from any governmental authority alleging that the consent of such party is or may be required in connection with the transactions contemplated by the Restructuring, or (C) receipt of any written notice of any proceeding commenced or, to the actual knowledge of the Company, threatened against the Company relating to or involving or otherwise affecting in any material respect the transactions contemplated by this Agreement or the Restructuring; and

(xii) not (A) increase the base salary, target bonus opportunity, or other benefits payable by the Company to any senior management employee without the consent of the Requisite Creditors or (B) make any amendment, waiver, supplement

or other modification to any senior management employment agreement or senior management employee retention, severance, incentive, or other compensation plan, agreement or arrangement, or enter into any new senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement or pay any amount contemplated by any currently existing senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement before the date on which such amount becomes due and payable pursuant to the terms of such agreements, arrangements or plans, as applicable, in each case, without the consent of the Requisite Creditors.

(b) Limited Waiver of Automatic Stay. The Company acknowledges and agrees and shall not dispute that, after the commencement of the Chapter 11 Cases, the giving of notice of termination of this Agreement by any Party solely in accordance with the terms of this Agreement shall not be a violation of the automatic stay of section 362 of the Bankruptcy Code or any other stay (and the Company hereby waives, to the fullest extent permitted by law, the applicability of the automatic stay or any other stay to the giving of such notice); *provided, however*, that nothing herein shall prejudice any Party's rights to argue that the giving of any notice of default or termination was not proper under the terms of this Agreement.

5. **Termination of Agreement.**

(a) This Agreement shall terminate three (3) Business Days following the delivery of written notice (in accordance with Section 20 hereof) from: (i) the Requisite First Lien Lenders to Parent and counsel to the Ad Hoc Crossholder Group at any time after the occurrence and during the continuance of any Creditor Termination Event (defined below); (ii) the Requisite Second Lien Lenders to Parent and counsel to the Ad Hoc First Lien Group at any time after the occurrence and during the continuance of any Creditor Termination Event; or (iii) Parent to the Consenting Creditors at any time after the occurrence and during the continuance of any Company Termination Event (defined below). Notwithstanding any provision to the contrary in this Section 5, no Party may exercise any of its respective termination rights as set forth herein if such Party has failed to perform or comply in all material respects with the terms and conditions of this Agreement (unless such failure to perform or comply arises as a result of another Party's actions or inactions in breach of this Agreement), with such failure to perform or comply causing, or resulting in, the occurrence of a Creditor Termination Event or Company Termination Event specified herein. This Agreement shall terminate on the Effective Date without any further required action or notice.

(b) A "Creditor Termination Event" shall mean any of the following:

(i) the breach by the Company of any of the undertakings, representations, warranties, or covenants of the Company set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 (as applicable);

(ii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(iii) the failure of the Company to satisfy any Milestone as and when due;

(iv) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(v) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order;

(vi) the Bankruptcy Court or any other court of competent jurisdiction enters a final order that grants relief terminating, annulling, or materially modifying the automatic stay (as set forth in section 362 of the Bankruptcy Code) or any other stay with regard to any material asset that, to the extent such relief were granted, would have a material adverse effect on the consummation of the Restructuring;

(vii) the Debtors withdraw the Plan or file any plan of reorganization or liquidation or disclosure statement that is inconsistent in any material respect with this Agreement, the Restructuring Term Sheets, or the Plan;

(viii) the Company files any document, motion, application, or adversary proceeding challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Consenting Creditors' Claims;

(ix) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Financing Documents;

(x) the Company files a document, motion, application, or adversary proceeding (or the Company supports any such document, motion, application, or adversary proceeding filed or commenced by any third party) (A) challenging the validity, enforceability, perfection, or priority of, or seeking the avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such

Indebtedness, the Credit Agreements or any Credit Document (as such term is defined in the Credit Agreements) or the prepetition liens securing the Indebtedness or (B) challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such Indebtedness or the prepetition liens securing the Indebtedness;

(xi) the Debtors lose the exclusive right to file a plan or plans of reorganization or to solicit acceptances thereof pursuant to section 1121 of the Bankruptcy Code;

(xii) the commencement of an involuntary case against the Company or the filing of an involuntary petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief in respect of the Company, or its debts, or of a substantial part of its assets, under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof), or if any court grants the relief sought in such involuntary proceeding; or

(xiii) without the prior consent of the Requisite Creditors, the Company (A) voluntarily commences any case or files any petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect except as contemplated by this Agreement (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (C) files an answer admitting the material allegations of a petition filed against it in any such proceeding; or (D) applies for or consents to the appointment of a receiver (other than in furtherance of the Pledge Enforcement and the Share and Intercompany Debt Transfer), administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official, trustee or examiner pursuant to section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases, (E) makes a general assignment or arrangement for the benefit of creditors, or (F) takes any corporate action directly or indirectly authorizing any of the foregoing.

(c) A "Company Termination Event" shall mean any of the following:

(i) the breach by one or more of the Consenting Creditors of any of the undertakings, representations, warranties, or covenants of the Consenting Creditors set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Creditors collectively hold less than 66⅔% of the

aggregate principal amount of each of the First Lien Debt and the Second Lien Debt then outstanding or comprise less than half in number of each of the First Lien Lenders and the Second Lien Lenders;

(ii) the board of directors, managers, members, or partners, as applicable, of Parent or any Company Party hereto reasonably determines in good faith, based upon the advice of counsel, that continued performance under this Agreement would be inconsistent with the exercise of its fiduciary duties under applicable law; *provided, however*, that Parent or such Company Party provides notice of such determination to the Consenting Creditors within five (5) Business Days after the date thereof;

(iii) if, as of 11:59 p.m. prevailing Eastern Time on June 13, 2020, the Support Effective Date has not occurred;

(iv) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(v) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Credit Agreement;

(vi) if counsel to the Ad Hoc First Lien Group and/or counsel to the Ad Hoc Second Lien Group give notice of termination of this Agreement pursuant to this Section 5;

(vii) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(viii) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as "foreign main proceedings" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order; or

(ix) the occurrence of the Outside Date if the Effective Date has not occurred.

Notwithstanding the foregoing, any of the dates or deadlines set forth in Section 5(b) and 5(c) may be extended by the mutual agreement of the Company and the Requisite Creditors.

In addition, notwithstanding anything set forth herein, the Requisite First Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting First Lien Lenders, may terminate this Agreement upon the breach by any Consenting Second Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting Second Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Second Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the Second Lien Debt then outstanding or comprise less than half in number of the Second Lien Lenders; and *provided further* that the Requisite Second Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting Second Lien Lenders, may terminate this Agreement upon the breach by any Consenting First Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting First Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting First Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the First Lien Debt then outstanding or comprise less than half in number of the First Lien Lenders.

(d) Mutual Termination. This Agreement may be terminated by mutual agreement of the Company and the Requisite Creditors upon the receipt of written notice delivered in accordance with Section 20 hereof.

(e) Effect of Termination. Subject to the provisions contained in Section 5(a) and Section 13, upon the termination of this Agreement in accordance with this Section 5, this Agreement shall forthwith become null and void and of no further force or effect and each Party shall, except as provided otherwise in this Agreement, be immediately released from its liabilities, obligations, commitments, undertakings, and agreements under or related to this Agreement and shall have all the rights and remedies that it would have had and shall be entitled to take all actions, whether with respect to the Restructuring or otherwise, that it would have been entitled to take had it not entered into this Agreement, including all rights and remedies available to it under applicable law; *provided, however*, that in no event shall any such termination relieve a Party from liability for its breach or non-performance of any of its obligations hereunder prior to the date of such termination.

(f) If the Restructuring is not consummated, nothing herein shall be construed as a waiver by any Party of any or all of such Party's rights, and the Parties expressly reserve any and all of their respective rights. This Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce the Agreement's terms, and, if applicable, Federal Rule of Evidence 408 and any other applicable rules shall apply.

6. **Definitive Documents; Good Faith Cooperation; Further Assurances.**

Each Party hereby covenants and agrees to cooperate with each other in good faith in connection with, and shall exercise commercially reasonable efforts with respect to the pursuit, approval, negotiation, execution, delivery, implementation, and consummation of, the Plan, any Recognition Proceeding, the Pledge Enforcement, the Share and Intercompany Debt Transfer, and the Restructuring, as well as the negotiation, drafting, execution and delivery of the Definitive Documents. Furthermore, subject to the terms hereof, each of the Parties shall (i) take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, including making and filing any required regulatory filings, and (ii) refrain from taking any action that would frustrate the purposes and intent of this Agreement.

7. **Representations and Warranties.**

(a) Each Party, severally (and not jointly), represents and warrants to the other Parties that the following statements are true, correct, and complete as of the date hereof (or as of the date a Consenting Creditor becomes a party hereto):

(i) such Party is validly existing and in good standing under the laws of its jurisdiction of incorporation or organization, and has all requisite corporate, partnership, limited liability company, or similar authority to enter into this Agreement and carry out the transactions contemplated hereby and perform its obligations contemplated hereunder; and the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized by all necessary corporate, limited liability company, partnership or other similar action on its part;

(ii) the execution, delivery, and performance by such Party of this Agreement does not and will not (A) violate any material provision of law, rule, or regulation applicable to it or any of its subsidiaries or its charter or bylaws (or other similar governing documents) or those of any of its subsidiaries, or (B) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it or any of its subsidiaries is a party except, in the case of the Company, for the filing of the Chapter 11 Cases, the commencement of any Recognition Proceeding, and the consummation of the Pledge Enforcement and Share and Intercompany Debt Transfer;

(iii) the execution, delivery, and performance by such Party of this Agreement does not and will not require any material registration or filing with, consent or approval of, or notice to, or other action, with or by, any federal, state or governmental authority or regulatory body; and

(iv) this Agreement is the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other

similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability or a ruling of the Bankruptcy Court.

(b) Each Consenting Creditor severally (and not jointly) represents and warrants to the other Parties that, as of the date hereof (or as of the date such Consenting Creditor becomes a party hereto), such Consenting Creditor (i) is, or subject to clearance of trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement, was or will be the owner of the aggregate principal amount of Indebtedness and/or Interests set forth below its name on the signature page hereto (or below its name on the signature page of a Joinder Agreement for any Consenting Creditor that becomes a party hereto after the date hereof), free and clear of any restrictions on transfer, liens or options, warrants, purchase rights, contracts, commitments, claims, demands, and other encumbrances and does not own any other Claims or Interests (other than pursuant to any trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement), and/or (ii) has, with respect to the beneficial owners of such Claims or Interests, (A) sole investment or voting discretion with respect thereto, (B) full power and authority to vote on and consent to matters concerning such Claims or Interests to exchange, assign, and transfer such Claims or Interests, and (C) full power and authority to bind or act on the behalf of, such beneficial owners; *provided that* to the extent there are any discrepancies between the amounts set forth on a signature page hereto (or on a signature page to a Joinder Agreement) and the amounts set forth on the official registers maintained by the Agents, such Consenting Creditor and the Company shall work together in good faith to resolve such discrepancies with the Agents and to update, if necessary, the amounts set forth on the underlying signature page at issue.

8. **Disclosure; Publicity.**

The Company shall submit drafts to Consenting Creditor Counsel of any press releases regarding the Restructuring at least one (1) Business Day prior to making any such disclosure. Except as required by applicable law, rule, or regulation and notwithstanding any provision of any other agreement between the Company and such Consenting Creditor to the contrary, no Party or its advisors shall disclose to any Person (including, for the avoidance of doubt, any other Consenting Creditor), other than advisors to the Company and the Consenting Creditor Counsel, the principal amount or percentage of any Indebtedness of or Claims against the Company held by any Consenting Creditor without such Consenting Creditor's prior written consent; *provided, however*, that (a) if such disclosure is required by law, rule, or regulation, the disclosing Party shall, to the extent permitted by law, afford the relevant Consenting Creditor a reasonable opportunity to review and comment in advance of such disclosure and shall take commercially reasonable measures to limit such disclosure (the expense of which, if any, shall be borne by the relevant Consenting Creditor) and (b) the foregoing shall not prohibit the disclosure of the aggregate percentage or aggregate principal amount of Indebtedness collectively held by the Consenting Creditors. Notwithstanding the provisions in this Section 8, any Party may disclose, to the extent consented to in writing by a Consenting Creditor, such Consenting Creditor's individual holdings.

9. **Amendments and Waivers.**

(a) Other than as set forth in Section 9(b), this Agreement, including any exhibits or schedules hereto, may not be waived, modified, amended, or supplemented except with the written consent of the Company and the Requisite Creditors (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party).

(b) Notwithstanding Section 9(a):

(i) any waiver, modification, amendment, or supplement to this Section 9 shall require the written consent of all of the Parties;

(ii) any modification, amendment, or change to the definition of "Requisite Creditors" shall require the written consent of each Consenting Creditor and the Parent;

(iii) any modification, amendment, or change to the definition of "Requisite First Lien Creditors" shall require the written consent of each Consenting First Lien Creditor and the Parent;

(iv) any modification, amendment, or change to the definition of "Requisite Second Lien Creditors" shall require the written consent of each Consenting Second Lien Creditor and the Parent;

(v) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that contemplates a sale of the shares in the Parent, all or substantially all of the assets of the Company or a significant business line of the Company shall require the written consent of each Consenting Creditor; and

(vi) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that treats or affects any Consenting Creditor's Claims arising under the Indebtedness in a manner that is materially and adversely disproportionate, on an economic or non-economic basis, to the manner in which (A) if such Consenting Creditor is a Consenting First Lien Lender, the Consenting First Lien Lenders or (B) if such Consenting Creditor is a Consenting Second Lien Lender, the Consenting Second Lien Lenders, are treated (after taking into account each of the Consenting First Lien Lenders' and Consenting Second Lien Lenders', as applicable, respective holdings in the Company and the recoveries contemplated by the Reorganization Term Sheet (as in effect as of the Support Effective Date)) shall require the written consent of such materially adversely and disproportionately affected Consenting Creditor.

(c) In the event that (x) a Consenting Creditor referred to in Section 9(b)(v) or (y) a materially adversely and disproportionately affected Consenting Creditor referred to in

Section 9(b)(vi) (in each case, a "**Non-Consenting Creditor**") does not consent to a waiver, change, modification, or amendment to this Agreement requiring the consent of such Consenting Creditor, but such waiver, change, modification, or amendment receives the consent of Consenting Creditors owning at least 66⅔% of the outstanding principal amount of First Lien Debt or Second Lien Debt (whichever held by such Non-Consenting Creditor), this Agreement shall be deemed to have been terminated only as to such Non-Consenting Creditor, but this Agreement shall continue in full force and effect in respect to all other Consenting Creditors from time to time without the consent of any Consenting Creditors who have so consented.

10. **Effectiveness.**

This Agreement shall become effective and binding upon each Party upon the execution and delivery by such Party of an executed signature page hereto and shall become effective and binding on all Parties on the Support Effective Date; *provided, however*, that signature pages executed by Consenting Creditors shall be delivered to (i) other Consenting Creditors in a redacted form that removes such Consenting Creditors' account and/or fund name(s), holdings of Claims (including Indebtedness), and holdings of Interests and (ii) the Company, Weil, and Consenting Creditor Counsel in an unredacted form (to be held by Weil and Consenting Creditor Counsel on a professionals'-eyes-only basis).

11. **GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL.**

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

(b) Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any Party shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York (the "**New York Courts**") and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement or the Restructuring. Each of the Parties agrees not to commence any proceeding relating to this Agreement or the Restructuring except in the New York Courts, other than proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any New York Court. Each of the Parties further agrees that notice as provided in Section 20 shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any proceeding arising out of or relating to this Agreement or the Restructuring, (i) any claim that it is not personally subject to the jurisdiction of the New York Courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise) and (iii) that (A) the proceeding in any such court is brought in an inconvenient forum, (B) the venue of such proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Notwithstanding the foregoing, during the pendency of the Chapter 11 Cases, all proceedings contemplated by this Section 11(b) shall be brought in the Bankruptcy Court.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12. **Specific Performance/Remedies.**

It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief (including reasonable attorneys' fees and costs) as a remedy of any such breach, without the necessity of proving the inadequacy of money damages as a remedy, including an order of the Bankruptcy Court requiring any Party to comply promptly with any of its obligations hereunder. Each Party also agrees that it will not seek, and will waive any requirement for, the securing or posting of a bond in connection with any Party seeking or obtaining such relief.

13. **Survival.**

Notwithstanding the termination of this Agreement pursuant to Section 5 hereof, the agreements and obligations of the Parties in this Section 13 and Sections 5(e), 5(f), 8, 11, 12, 14, 15, 16, 17, 18, 19, 20, and 21 hereof (and any defined terms used in any such Sections) shall survive such termination and shall continue in full force and effect in accordance with the terms hereof; *provided, however*, that any liability of a Party for breach of the terms of this Agreement shall survive such termination.

14. **Headings.**

The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof or, for any purpose, be deemed a part of this Agreement.

15. **Successors and Assigns; Severability; Several Obligations.**

This Agreement is intended to bind and inure to the benefit of the Parties and their respective successors and permitted assigns; *provided, however*, that nothing contained in this Section 15 shall be deemed to permit Transfers of the Claims or Interests other than in accordance with the express terms of this Agreement. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, shall be held invalid or unenforceable in

whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision hereof and this Agreement shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible. The agreements, representations, and obligations of the Parties are, in all respects, ratable and several and neither joint nor joint and several.

16. **No Third-Party Beneficiaries.**

Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties (and their permitted successors and assigns) and no other Person shall be a third-party beneficiary hereof.

17. **Prior Negotiations; Entire Agreement.**

This Agreement, including the exhibits and schedules hereto (including the Restructuring Term Sheets), constitutes the entire agreement of the Parties and supersedes all other prior negotiations with respect to the subject matter hereof and thereof.

18. **Confidential Information.**

Any obligations the Company may have under or in connection with this Agreement to furnish Confidential Information to a Consenting Creditor shall be subject to such Consenting Creditor executing a confidentiality agreement with the Company in form and substance reasonably acceptable to the Company.

19. **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same agreement. Execution copies of this Agreement may be delivered by electronic mail, or otherwise, which shall be deemed to be an original for the purposes of this paragraph.

20. **Notices.**

All notices hereunder shall be deemed given if in writing and delivered, if contemporaneously sent by electronic mail, courier, or by registered or certified mail (return receipt requested) to the following addresses:

(1) If to the Company, to:

Pointwell Limited
2nd Floor 1-2 Victoria Buildings
Haddington Road, Dublin 4, Ireland D04XN32
Attention: Greg Porto
(Greg.Porto@skillsoft.com)

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Gary Holtzer, Esq.
(Gary.Holtzer@weil.com)
Andrew Wilkinson, Esq.
(Andrew.Wilkinson@weil.com)
Robert Lemons, Esq.
(robert.lemons@weil.com)
Katherine T. Lewis, Esq.
(katherine.lewis@weil.com)

(2) If to a member of the Ad Hoc First Lien Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Gibson Dunn & Crutcher LLP
1285 6th Avenue
New York, NY 10019

Attention: Scott J. Greenberg, Esq.
(sgreenberg@gibsondunn.com)
Steven A. Domanowski, Esq.
(sdomanowski@gibsondunn.com)
Matthew J. Williams, Esq.
(mjwilliams@gibsondunn.com)
Christina M. Brown, Esq.
(christina.brown@gibsondunn.com)

(3) If to a member of the Ad Hoc Crossholder Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Milbank LLP
55 Hudson Yards
New York, NY 10001

Attention: Evan Fleck
(efleck@milbank.com)
Yushan Ng
(yng@milbank.com)
Sarah Levin
(slevin@milbank.com)
Benjamin Schak
(bschak@milbank.com)

Any notice, consent, or authorization under this Agreement may be delivered by electronic mail (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party). Any notice given by delivery, mail, or courier shall be effective when received. Any notice given by electronic mail shall be effective upon oral, machine, or electronic mail (as applicable) confirmation of transmission.

21. **No Solicitation; Representation by Counsel; Adequate Information.**

(a) This Agreement is not and shall not be deemed to be a solicitation of an offer to buy securities or a solicitation for votes in favor of the Plan in the Chapter 11 Cases. The acceptances of the Consenting Creditors with respect to the Plan will not be solicited until such Consenting Creditor has received the Disclosure Statement and, as applicable, related ballots and other Solicitation Materials. In addition, this Agreement does not constitute an offer to issue or sell securities to any Person or the solicitation of an offer to acquire or buy securities in any jurisdiction where such offer or solicitation would be unlawful.

(b) Each Party acknowledges that it has had an opportunity to receive information from the Company and that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law, or order, or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived.

(c) Each Consenting Creditor acknowledges, agrees, and represents to the other Parties that it (i) is an "accredited investor" as such term is defined in Rule 501 of Regulation D of the Securities Act, (ii) is a "qualified institutional buyer" as such term is defined in Rule 144A under the Securities Act or an institutional "Accredited Investor" as defined in Rule 501(a)(1), (2),

(3), (7), or (8) under the Securities Act, (iii) understands that if it is to acquire any securities, as defined in the Securities Act, pursuant to the Restructuring, such securities have not been and will not be registered under the Securities Act and that such securities are, to the extent not offered, solicited, or acquired pursuant to section 1145 of the Bankruptcy Code, being offered and sold pursuant to an exemption from registration contained in the Securities Act, based in part upon such Consenting Creditor's representations contained in this Agreement and cannot be sold unless subsequently registered under the Securities Act or an exemption from registration is available, and (iv) has such knowledge and experience in financial and business matters that such Consenting Creditor, as applicable, is capable of evaluating the merits and risks of the securities to be acquired by it (if any) pursuant to the Restructuring and understands and is able to bear any economic risks with such investment.

22. **Miscellaneous.**

When a reference is made in this Agreement to a Section, Exhibit, or Schedule, such reference shall be to a Section, Exhibit, or Schedule, respectively, of or attached to this Agreement unless otherwise indicated. Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively, (ii) the terms "hereof," "herein," "hereby," and derivative or similar words refer to this entire Agreement, (iii) the words "include," "includes," and "including" when used herein shall be deemed in each case to be followed by the words "without limitation," (iv) the word "or" shall not be exclusive and shall be read to mean "and/or" and (v) unless the context otherwise requires, the word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if".

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective duly authorized officers, solely in their respective capacity as officers of the undersigned and not in any other capacity, as of the date first set forth above.

PARENT:

POINTWELL LIMITED

By: _____

Name: Ronald Hovsepian
Title: Director

COMPANY PARTIES:

SSI INVESTMENTS I LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS II LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS III LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT IRELAND LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

THIRDFORCE GROUP LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS IRELAND LEARNING LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

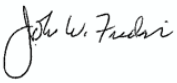
ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By:  _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

CYBERSHIFT HOLDINGS, INC.

By: _____

Name: Greg Porto
Title: Director

CYBERSHIFT, INC.

By: _____

Name: Greg Porto
Title: Director

SKILLSOFT U.K. LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

SKILLSOFT CANADA, LTD.

By: _____

Name: Bobb Jenkins
Title: Director

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

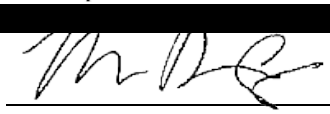
Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

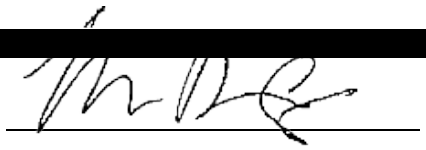
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: DocuSigned by: Eric Larsson 97CBAED964A54A3...
(for Alcentra Limited as investment manager)

Name: Eric Larsson

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

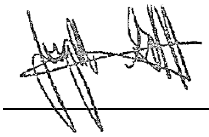
Notice Address: Alcentra Limited, 160 Queen Victoria Street, London EC4V 4LA

Fax: _____
Attention: Amos Ouattara / Christopher Schubert___
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

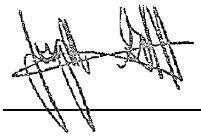
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

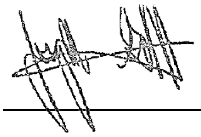
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

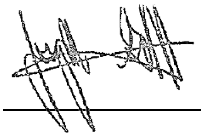
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

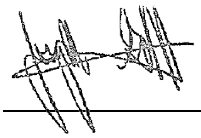
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

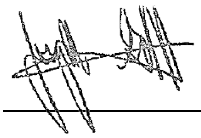
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

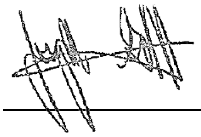
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

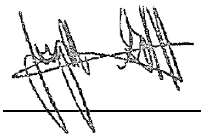
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

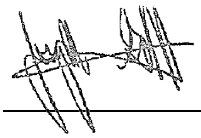
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo TRF MP Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

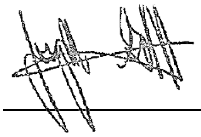
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its portfolio manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

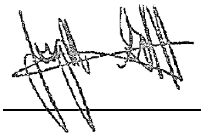
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC, Management Series 2,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

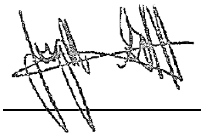
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

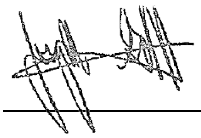
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

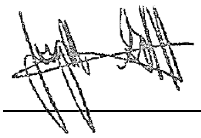
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

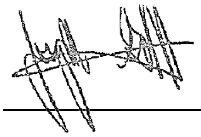
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

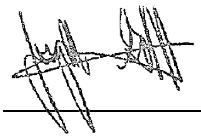
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its asset manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

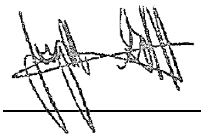
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

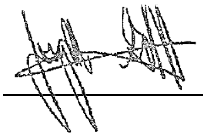
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

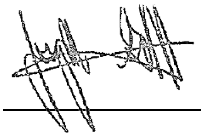
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

Benefit Street Partners LLC, on behalf of certain managed funds and accounts

By: 

Name: Alex McMillan

Title: Chief Compliance Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $0

Principal Amount of the Second Lien Debt: $0

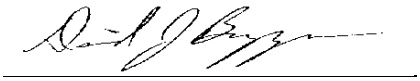
Interests (please describe): n/a

Notice Address:
9 W 57th St, Suite 4920
New York, NY 10019

Fax: n/a
Attention: Alex McMillan
Email: a.mcmillan@benefitstreetpartners.com and j.rodbard@benefitstreetpartners.com

CONSENTING CREDITOR

DDJ Capital Management, LLC,
in its capacity on behalf of the
Consenting Creditors that it manages and/or advises

By: 

Name: David J. Breazzano

Title: President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

DDJ Capital Management, LLC
130 Turner Street
Building #3, Suite 600
Waltham, MA 02453

Fax: (781) 419-9189
Attention: Legal Department
Email: legal@ddjcap.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Sub-Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Calvert Research and Management

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
As Investment Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

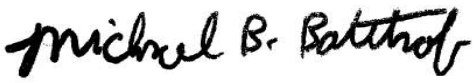
2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management as Investment Advisor

By: 

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: _____

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: 

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By: 

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

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Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

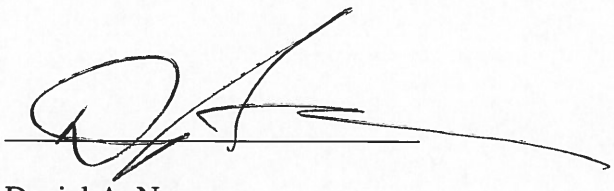
Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

VOYA INVESTMENT MANAGEMENT CO. LLC
on its own behalf and, as applicable, on behalf of its affiliates and managed or sub-advised funds and accounts

By: 

Name: Daniel A. Norman

Title: Senior Managing Director

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $n/a

Principal Amount of the Second Lien Debt: $n/a

Interests (please describe): n/a

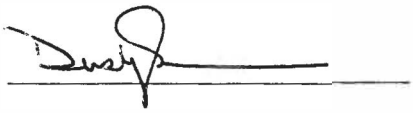
Notice Address:

Voya Investment Management
7337 East Doubletree Ranch Road
Scottsdale, Arizona, USA 85258

Fax: (480) 477-2607
Attention: Jake Jamison, Vice President for Legal Affairs
Email: jake.jamison@voya.com

CONSENTING CREDITOR

Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolvi[redacted]

Principal Amount of the Second Lien Debt[redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Kapitalforeningen Investin Pro - Lodbrok Select Opportunities

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loan [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

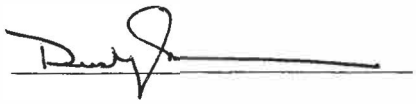
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok European Credit Opportunities Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Funding Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Deb [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

MAP 512 Sub Trust of LMA Ireland

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Lo[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Mercer QIF Fund PLC - Mercer Investment Fund 1

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

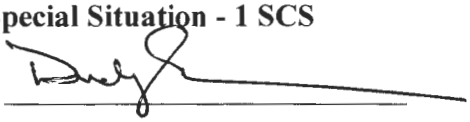
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 1 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loa[redacted]

Principal Amount of the Second Lien Debt: [redacted]

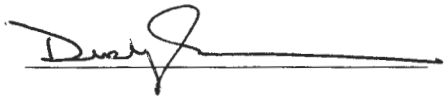
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 2 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 3 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

CRF2 SA

By: _____

Name: Quentin Leveque

Title: Director

By: _____

Name: Besar Muhameti

Title: Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien De [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EMPIRE CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EAD CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

CRF3 Investments I S.à r.l.

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving L[redacted]

Principal Amount of the Second Lien Debt: $ [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

NORTH HAVEN CREDIT PARTNERS II L.P.
By: MS Credit Partners II GP L.P., its general partner
By: MS Credit Partners II GP Inc., its general partner

By: 

Name: Ashwin Krishnan

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +1 212 507 4216
Attention: Ashwin Krishnan
Email: Ashwin.krishnan@morganstanley.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI GLOBAL ASSET ALLOCATION PRIVATE POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH YIELD BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE GLOBAL INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI U.S. INCOME US$ POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SENTRY GLOBAL HIGH YIELD FIXED INCOME PRIVATE TRUST

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE FLOATING RATE INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE CORPORATE BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CANADIAN FIXED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

EXHIBIT A

AD HOC CROSSHOLDER GROUP

1. Lodbrok European Credit Opportunities Sàrl
2. Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio
3. Kapitalforeningen Investin Pro - Lodbrok Select Opportunities
4. MAP 512 Sub Trust of LMA Ireland
5. Mercer QIF Fund PLC - Mercer Investment Fund 1
6. Lodbrok Special Situation - 1 SCS
7. Lodbrok Special Situation - 2 SCS
8. Lodbrok Special Situation - 3 SCS
9. Lodbrok Funding Sàrl
10. CRF2 SA
11. CRF3 Investments I S.à r.l.
12. EAD CREDIT INVESTMENTS I SARL
13. EMPIRE CREDIT INVESTMENTS I SARL
14. Enhanced Income Corporate Class
15. Enhanced Income Pool
16. Canadian Fixed Income Pool
17. Signature Corporate Bond Fund
18. Signature Floating Rate Income Pool
19. Signature High Income Fund
20. Signature Income & Growth Fund
21. Sentry Global High Yield Fixed Income Private Trust
22. CI US Income $US Pool
23. Signature Diversified Yield Corporate Class
24. Signature Global Income & Growth Fund
25. Signature High Yield Bond Fund
26. CI Global Asset Allocation Private Pool
27. CI Income Fund
28. Signature Diversified Yield Fund
29. NORTH HAVEN CREDIT PARTNERS II L.P.

EXHIBIT B

AD HOC FIRST LIEN GROUP

EXHIBIT C

DIP AND EXIT FACILITY TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for DIP and Exit Financing Facilities

Summary of Terms and Conditions

June 12, 2020

This DIP and Exit Facility Term Sheet[1] sets forth the principal terms of the DIP Facility and the Exit Credit Facility.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Company Parties set forth on Schedule 1 to the Reorganization Term Sheet.

Without limiting the generality of the foregoing, this DIP and Exit Facility Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This DIP and Exit Facility Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this DIP and Exit Facility Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this DIP and Exit Facility Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS DIP AND EXIT FACILITY TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Summary	▪ $50,000,000 delayed draw term loan facility to be funded in escrow (subject to withdrawal conditions described below) ► Backstopped by certain members of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (collectively, the "**DIP Backstop Parties**"); provided that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group ► After the funding date, the DIP Facility will by syndicated to all First Lien Lenders on a pro rata basis ▪ "**Borrower**" to be Skillsoft Corporation ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the First Lien Credit Agreement, provided that the Evergreen Skills Entities shall not be Credit Parties	▪ $90,000,000 super senior term loan facility under Exit Credit Agreement ► $50,000,000 rolled from DIP Facility ▪ "**Borrowers**" to be Newco Borrower, Skillsoft Corporation and such other Credit Parties to be agreed ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the DIP Facility, plus Newco Borrower and Newco Parent and any additional foreign entities required pursuant to the terms of the Exit Credit Agreement ▪ Backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**"); provided, that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group	▪ $410,000,000 first lien, second-out term loan facility under Exit Credit Agreement ▪ Borrowers, Credit Parties and Administrative Agent to be the same as those under the New First Out Term Loan Facility
Maturity	▪ Earlier of (i) 3 months after the Petition Date, subject to one 1-month extension at the sole discretion of DIP Lenders holding, as of the date of determination, at least a majority of the aggregate principal amount of loans outstanding under the DIP Facility (the "**Requisite DIP Lenders**"), (ii) conversion or dismissal of the Chapter 11 Cases, (iii) acceleration, (iv) sale of all or substantially all assets and (v) the Effective Date	▪ Earlier of (i) December 2024 and (ii) acceleration	▪ Earlier of (i) April 2025 and (ii) acceleration
Carve-Out	▪ Usual and customary professional fee carve-out for DIP facilities of this type to be mutually agreed (the "**Carve-Out**")	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Availability	▪ $25,000,000 available upon entry of the Interim DIP Order ("**Initial Availability**") ▪ Remaining $25,000,000 available upon entry of Final Order ("**Additional Availability**")	▪ n.a.	▪ n.a.
Use of Proceeds	▪ Working capital, general corporate purposes and chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, and providing adequate protection in each case solely in accordance with a budget in form and substance acceptable to the DIP Lenders (the "**DIP Budget**")	▪ Working capital, general corporate purposes, any DIP Facility paydown and chapter 11 emergence costs	▪ n.a.
Security & Ranking	As set forth in the Bankruptcy Code, and subject to the Carve-Out, the DIP Facility shall be entitled to: ▪ Priming, perfected first priority DIP liens on all Collateral of the Debtors (as defined in the First Lien Credit Agreement) securing the First Lien Debt ▪ Perfected first priority DIP liens on all property of the Debtors not subject to valid, perfected and non-avoidable liens as of the commencement of the Chapter 11 Cases and the proceeds thereof ▪ Perfected junior DIP liens on all property of the Debtors that is subject to valid, perfected and non-avoidable liens in existence at the time of the commencement of the Chapter 11 Cases or to valid and non-avoidable liens in existence at the time of such commencement (other than liens securing the First Lien Debt) ▪ Super-priority, administrative claim status	▪ Perfected first priority liens on all Collateral (as defined in the First Lien Credit Agreement) ▪ Perfected first priority liens on all assets of the Credit Parties, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Perfected first priority liens on 100% of equity in/assets of foreign subsidiaries, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Other standard and customary assets to be included in collateral package	▪ Same collateral package as the New First Out Term Loan Facility (such collateral package, the "**Exit Facility Collateral**") ▪ The New Second Out Term Loans shall be junior in all respects to the New First Out Term Loans with respect to the Exit Facility Collateral; provided that both the New First Out Term Loan Facility and the New Second Out Term Loan Facility shall be secured by a first lien on the Exit Facility Collateral
Economics	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Commitment payment: 300 bps earned and payable in cash to all DIP Lenders on the funding date	▪ Commitment payment: (i) with respect to the new money portion of the Exit Credit Facility, 300 bps payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) and (ii) with respect to the rolled portion of the Exit Credit Facility, 200 bps earned and payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) on the funding date to occur on the Effective Date	▪ n.a.
	▪ Seasoning/fronting fees to be paid by the Company	▪ Seasoning/fronting fees to be paid by the Company	▪ n.a.
	▪ Backstop payment: 250 bps earned and payable in cash to the DIP Backstop Parties on the funding date	▪ Backstop payment: (i) with respect to the new money portion of the Exit Credit Facility, 250 bps earned and payable in cash to the Exit Backstop Parties and (ii) with respect to the rolled portion of the Exit Credit Facility, 150 bps earned and payable in cash to the Exit Backstop Parties on the funding date to occur on the Effective Date	▪ n.a.
Amortization	▪ n.a.	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022
Documentation	▪ The definitive documentation for the DIP Facility (the "**DIP Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ The definitive documentation for the Exit Credit Facility (the "**Exit Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Reporting	▪ Usual and customary for facilities of this type and subject to the Documentation Principles ▪ Bi-Weekly cash flow reporting, including Bi-weekly variance reporting in the same format as the DIP Budget with written discussion of variances (including but not limited to whether variances are temporary or permanent)	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, and shall include: ► Annual budget ► Monthly reporting ► Quarterly and annual financials	▪ Same as New First Out Term Loan Facility
Withdrawal	Conditions to a withdrawal shall include: ▪ Bringdown of representations and warranties in all material respects ▪ No Default or Event of Default under the DIP Credit Agreement ▪ Customary representation related to effectiveness of DIP Order ▪ The RSA shall be in full force and effect ▪ Cap on availability until entry of Final Order ▪ Compliance with DIP Budget (subject to permitted variance) ▪ Delivery of Withdrawal Notice ▪ Satisfaction of Financial Covenants	▪ n/a	▪ n/a
Mandatory Prepayments	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ No ECF sweep ▪ Other mandatory prepayments usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Financial Covenants	▪ Receipts and Disbursements Variance Test with a 15% cushion on a cumulative basis (disbursements to exclude professional fees), tested bi-weekly on a rolling 4-week basis commencing on the third week after the Petition Date ▪ Minimum liquidity (to be defined as mutually agreed) in an amount to be agreed	▪ Maximum leverage ▪ First test on January 31, 2022, quarterly testing thereafter ▪ Initial 6.00x covenant level with 0.5x step downs semi-annually until 4.50x after which the leverage covenant will remain flat	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Cap on cash maintained by non-Credit Parties and/or non-Debtors in an amount to be agreed	▪ EBITDA definition to exclude "pro forma" and similar add-backs except for cost savings programs already initiated (capped at 25% of Cash EBITDA) and restructuring costs related to the Restructuring	
Affirmative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Negative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Adequate Protection	▪ Adequate protection liens on all DIP Collateral (including avoidance action proceeds) ▪ Adequate protection 507(b) super priority claim ▪ Current cash payment of reasonable and documented professional fees and expenses for the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ All information and reporting rights set forth in the DIP Facility	▪ n.a.	▪ n.a.
Events of Default	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Milestones	▪ Entry of Disclosure Statement and Plan (T+1 Business Day) ▪ Entry of Interim DIP Order (T+3 Business Days) ▪ Entry of Final DIP Order (T+25 Calendar Days) ▪ Entry of Confirmation Order (T+60 Calendar Days) ▪ Effective Date (T+80 Calendar Days) ▪ Canadian Borrower commences Canadian Recognition Proceeding (4 Business Days	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	following entry of Interim DIP Order and Prepack Scheduling Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Final DIP Recognition Order (4 Business Days following the entry of the Final DIP Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Plan Confirmation Recognition Order (4 Business Days following the entry of the Confirmation Order)		
Conditions Precedent	Usual and customary for DIP facilities of this type and subject to the Documentation Principles, including without limitation: ▪ Delivery of acceptable DIP Budget ▪ Payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ Entry of Interim DIP Order followed by entry of Final Order ▪ Execution of DIP Credit Agreement and other DIP Documents	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, including, payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Consent to Use Cash Collateral	▪ Prepetition First Lien Agent, Prepetition First Lien Lenders party to the RSA, Prepetition Second Lien Agent and Prepetition Second Lien Lenders party to the RSA shall consent to Debtors' use of all cash as cash collateral in accordance with use of proceeds and Approved DIP Budget	▪ n.a.	▪ n.a.
Tax	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Other Terms & Conditions	▪ Existing AR Facility to remain in place on terms and conditions to be mutually agreed	▪ Commercially reasonable efforts to obtain credit rating from both Moody's and S&P (i) prior to the Effective Date and (ii) if not	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Waiver of section 506(c), section 552(b) equity of the cases exception and marshalling, subject to entry of a final DIP order ▪ Prior to the earlier to occur of (i) 30 days after the Petition Date and (ii) the entry of the Final DIP Order, the Company to use commercially reasonable efforts to obtain private credit ratings of the DIP Facility from both Moody's and S&P ▪ Upon Event of Default of the DIP Facility, Requisite DIP Lenders may direct the Administrative Agent to exercise remedies	obtained prior to the Effective Date, within 30 days post-close ▪ AR Facility in place on terms and conditions acceptable to Exit Facility Lenders	

EXHIBIT D

REORGANIZATION TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for Reorganization Transaction
Summary of Terms and Conditions

June 12, 2020

This Reorganization Term Sheet[1] sets forth the principal terms of the Restructuring and certain related transactions concerning the Company.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Parent and Company Parties set forth on Schedule 1 (each, a "**Debtor**" and, collectively, the "**Debtors**").

Without limiting the generality of the foregoing, this Reorganization Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This Reorganization Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this Reorganization Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this Reorganization Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated, and such evaluation may affect the terms and structure of the Restructuring. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS REORGANIZATION TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

Summary of Prepetition Obligations and Interests	
First Lien Revolving Credit Facility	"**First Lien Revolving Credit Facility**" means the revolving credit facility provided under the First Lien Credit Agreement. As of April 30, 2020, the principal obligations outstanding under the First Lien Revolving Credit Facility (collectively, the "**First Lien Revolving Credit Debt**") totaled approximately $80 million. "**First Lien Revolving Credit Claims**" means all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Revolving Credit Facility as of the Petition Date.
First Lien Term Loan Facility	"**First Lien Term Loan Facility**" means the term loan facility provided under the First Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the First Lien Term Loan Facility totaled approximately $1,290 million (collectively, the "**First Lien Term Loan Debt**" and, together with the First Lien Revolving Credit Debt, the "**First Lien Debt**"). "**First Lien Term Loan Claims**" (together with the First Lien Revolving Credit Claims, the "**First Lien Debt Claims**") shall refer to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Term Loan Facility as of the Petition Date.
Second Lien Term Loan Facility	"**Second Lien Term Loan Facility**" means the term loan facility provided under the Second Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Second Lien Term Loan Facility totaled approximately $670 million (collectively, the "**Second Lien Debt**"). "**Second Lien Debt Claims**" refers to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the Second Lien Term Loan Facility as of the Petition Date.
Existing AR Facility	"**Existing AR Facility**" means the senior secured credit facility comprised of a $75 million Class A revolving line of credit (the "**Class A Tranche**") and a $15 million Class B revolving line credit (the "**Class B Tranche**") provided under the Existing AR Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Class A Tranche totaled approximately $63.1 million and the principal obligations outstanding under the Class B Tranche totaled approximately $14.62 million.
General Unsecured Claims	"**General Unsecured Claims**" means any prepetition, general unsecured claim against one or more Debtors, *excluding* claims held by one or more Debtors, claims held by one or more non-Debtor affiliates of Parent (including claims held by the Evergreen Skills Entities (defined below) and/or the Sponsor or its affiliates), the First Lien Debt Claims, and the Second Lien Debt Claims.
Intercompany Claims	"**Intercompany Claims**" means any prepetition claim against one or more Debtors held by another Debtor or by a non-Debtor affiliate of Parent, including any claims held by Holdings, the Lux Borrower, Evergreen Skills Holding Lux, or Evergreen Skills Top Holding Lux (the preceding four entities, the "**Evergreen Skills Entities**"), other than the Pointwell Intercompany Debt (defined below).

Summary of Prepetition Obligations and Interests	
Pointwell Intercompany Debt	"**Pointwell Intercompany Debt**" means certain intercompany obligations owed to the Lux Borrower by the Parent which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.
Intercompany Interests	"**Intercompany Interests**" means any prepetition Interest in a Debtor held by another Debtor or non-Debtor affiliate of Parent (excluding the Evergreen Skills Entities and the Sponsor).
Existing Parent Equity Interests	"**Existing Parent Equity Interests**" means the equity securities of Parent, consisting of any common stock, preferred stock, warrants, or other ownership interest of or in Parent, including those interests held directly or indirectly by the Evergreen Skills Entities or the Sponsor.
Subordinated Claims	"**Subordinated Claims**" means any claim subject to subordination under section 510(b) of the Bankruptcy Code, including without limitation all accrued and unpaid management fees and other amounts owed to the Sponsor.
Overview of the Restructuring	
Implementation of the Restructuring	The Restructuring shall be implemented with the support of the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group, the Evergreen Skills Entities, and the Sponsor through the Chapter 11 Cases pursuant to the Plan. Each of the Parent and the Company Parties shall commence the Chapter 11 Cases and shall use commercially reasonable efforts to confirm and consummate the Plan, which shall be consistent in all material respects with this Reorganization Term Sheet and the Restructuring Support Agreement and/or otherwise in form and substance reasonably acceptable to the Company and the Requisite Creditors. The Plan will provide creditors with the distributions reflected below. The Canadian Borrower shall commence the Canadian Recognition Proceeding seeking an order or orders recognizing the Chapter 11 Cases as a "foreign main proceeding" and granting related relief, including, without limitation, recognizing and giving full force and effect to the orders of the Bankruptcy Court approving the DIP Facility and confirming the Plan (such order of the Canadian Court recognizing the Bankruptcy Court order confirming the Plan, the "**Canadian Plan Confirmation Recognition Order**"). The granting of the Canadian Plan Confirmation Recognition Order shall be a condition precedent to the effectiveness of the Plan. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting the Required Lenders under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effect the Pledge Enforcement and take such other steps as may be necessary or desirable (including, but not limited to, voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement, including entry into Pledge Enforcement Documents.

Summary of Prepetition Obligations and Interests	
Consideration for Distribution	The aggregate consideration that will be distributed pursuant to the Plan on the Effective Date will include, as and to the extent applicable: (i) the New Second Out Term Loan Facility (defined below); (ii) the Newco Equity (defined below); and (iii) the Warrants (defined below).
DIP Facility; Use of Cash Collateral	The Restructuring will be financed by (i) the consensual use of cash collateral and (ii) an up to $50 million DIP Facility to be provided by the DIP Lenders, subject to the terms and conditions set forth in the DIP and Exit Facility Term Sheet. Subject to the terms of the DIP and Exit Facility Term Sheet, the DIP Facility shall be used to fund (i) the operations of the Debtors, as debtors and debtors in possession in the Chapter 11 Cases, including the Debtors' working capital and general corporate purposes, as well as the payment of professional fees and expenses and required fees and debt service on the DIP Facility, and (ii) the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital with proceeds from the DIP Facility.
New First Out Term Loan Facility	"**New First Out Term Loan Facility**" means a new "first out" term loan facility (the loans thereunder, the "**New First Out Term Loans**") in an aggregate principal amount not to exceed (i) the aggregate principal amount outstanding under the DIP Facility as of [ten] days prior to the Effective Date (the "**Converted DIP Facility Loans**") (which Converted DIP Facility Loans shall be converted into New First Out Term Loans) and (ii) a cash amount equal to $90 million less the Converted DIP Facility Loans (collectively, the "**New First Out Term Loan Amount**" and the commitment to provide such amount, the "**New First Out Term Loan Commitment**"). The New First Out Term Loan Facility shall be made available to all holders of First Lien Debt Claims in accordance with the DIP and Exit Facility Term Sheet; *provided that* the New First Out Term Loan Facility shall be backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**") (it being understood and agreed that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by all members of each such group). The New First Out Term Loan Facility shall be documented in a credit agreement which shall be in form and substance consistent with the terms and conditions set forth in the DIP and Exit Facility Term Sheet. The New First Out Term Loan Facility shall be senior in respect of payment to the New Second Out Term Loan Facility (defined below).
New Second Out Term Loan Facility	"**New Second Out Term Loan Facility**" means a new "second out" term loan facility (the loans thereunder, the "**New Second Out Term Loans**") in an aggregate principal amount of $410 million (the "**New Second Out Term Loan Amount**") that shall be documented in the Exit Credit Agreement. All claims and liens pursuant to the New Second Out Term Loan Facility shall be junior in all respects to the claims and liens pursuant to the New First Out Term Loan Facility; provided, that the New First Out Term Loan Facility and New Second Out Term Loan Facility shall be secured by a first lien on substantially all of the assets of the Credit Parties (as defined in the DIP and Exit Facility Term Sheet).
Exit AR Facility	"**Exit AR Facility**" means an accounts receivables facility in a principal amount up to $75 million to be provided under the Exit AR Credit Agreement.

Summary of Prepetition Obligations and Interests	
	The Exit AR Facility shall be secured on the same basis as the Existing AR Facility. The terms of the Exit AR Credit Agreement shall be materially consistent with the Existing AR Credit Agreement (provided that the provisions related to Class B Loans (as defined in the Existing AR Credit Agreement) may be modified to remove the Class B Tranche or replace the Class B Lender (as defined in the Existing AR Credit Agreement)) and otherwise be reasonably acceptable to the Company and the Requisite Creditors. The Exit AR Facility shall mature December 2024 or later.
Newco Equity	"**Newco Equity**" has the meaning ascribed to it in the Restructuring Support Agreement.
Tranche A Warrants	"**Tranche A Warrants**" means warrants representing the right to acquire 5.0% of the Newco Equity issued and outstanding immediately as of the Effective Date, subject to dilution by the Incentive Plans (defined below), which shall be documented pursuant to a "**Warrant Agreement**," which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Tranche B Warrants	"**Tranche B Warrants**" (together with the Tranche B Warrants, the "**Warrants**") means warrants representing the right to acquire 10.0% of the Newco Equity issued and outstanding as of the Effective Date, subject to dilution by the Incentive Plans, which shall be documented under the Warrant Agreement, which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Classification and Treatment of Claims and Interests	
Administrative Expense Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all administrative, priority, and priority tax claims (excluding DIP Facility Claims and Professional Fee Claims) (collectively, the "**Administrative Expense Claims**") shall be paid in full in cash.
Professional Fee Claims Unimpaired; Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all holders of claims against a Debtor for professional services rendered or costs incurred on or after the Petition Date and through and including the Effective Date by professional persons retained by the Debtors or any statutory committee appointed in the Chapter 11 Cases pursuant to sections 327, 328, 329, 330, 331, 363, or 1103 of the Bankruptcy Code in the Chapter 11 Cases (the "**Professional Fee Claims**") shall receive, in full and final satisfaction, release, and discharge of such claim, cash in an amount equal to the allowed amount of such Professional Fee Claim.
DIP Facility Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, the principal amount outstanding of loans extended under the DIP Facility shall be (i) converted on a dollar-for-dollar basis to New First Out Term Loans or (ii) repaid in full in cash (provided that the New First Out Term Loan Commitment is met in full). Accrued interest and other obligations under the DIP Facility will be paid in full in cash on the Effective Date.
First Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such First Lien Debt Claims, the holders of First Lien Debt Claims (or the permitted assigns and designees of such holders) shall receive their pro rata share of: (i) New Second Out Term Loans in an amount equal to the New Second Out Term Loan Amount; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans),

Summary of Prepetition Obligations and Interests	
	in each case based on the amount of First Lien Debt Claims as of the Petition Date.
Second Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such Second Lien Debt Claims, the holders of Second Lien Debt Claims shall receive their pro rata share of : (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants, in each case based on the amount of Second Lien Debt Claims as of the Petition Date.
General Unsecured Claims Unimpaired, Non-Voting	Except to the extent that a holder of an allowed General Unsecured Claim and the Company Party against which such allowed General Unsecured Claim is asserted agree to less favorable treatment for such holder, in full satisfaction of each allowed General Unsecured Claim against the Debtors, each holder thereof shall receive (i) payment in cash in an amount equal to such allowed General Unsecured Claim in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim, or (ii) such other treatment so as to render such Claim unimpaired.
Intercompany Claims	On the Effective Date, Intercompany Claims shall be reinstated, cancelled, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Pointwell Intercompany Debt	On the Effective Date, the Pointwell Intercompany Debt shall be treated in accordance with the Restructuring Transaction Steps.
Intercompany Interests	On the Effective Date, Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Existing Parent Equity Interests Impaired, Non-Voting, and Deemed to Reject	On the Effective Date, the Pointwell Share Capital shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps.
Subordinated Claims Impaired, Non-Voting and Deemed to Reject	Holders of Subordinated Claims shall not receive or retain any property under the Plan on account of such Subordinated Claims. On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.
Miscellaneous	
Existing / Exit AR Facility	The Existing AR Facility shall stay in place and the Existing AR Lenders shall continue to fund under the Existing AR Facility through consummation of the Plan (which the Company shall negotiate in good faith with the Existing AR Lenders to amend or modify, as needed, to allow for such funding during the pendency of the chapter 11 cases). On the Effective Date, the Existing AR Credit Agreement shall be amended and restated into the Exit AR Facility Agreement.

Summary of Prepetition Obligations and Interests	
Professional Fee Escrow	The Plan shall require the establishment of a professional fee escrow account (the "**Professional Fee Escrow**") to be funded with cash in the amount equal to the Professional Fee Reserve Amount (defined below). It shall be a condition precedent to the substantial consummation of the Plan that the Company shall have funded the Professional Fee Escrow in full in cash in an amount equal to the Professional Fee Reserve Amount. The Professional Fee Escrow shall be maintained in trust solely for the benefit of professionals retained by the Company, any official committee (a **"Committee**") appointed by the Bankruptcy Court, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group (each a "**Professional**," and collectively, the "**Professionals**"). The Professional Fee Escrow shall not be considered property of the Company or its estates, and no liens, claims, or interests shall encumber the Professional Fee Escrow, or funds held in the Professional Fee Escrow, in any way. The "**Professional Fee Reserve Amount**" shall consist of the total amount of (a) any unpaid invoices for fees and expenses incurred by Professionals retained by the Company or any official committee through and including the Effective Date; (b) estimated fees and expenses of the Professionals retained by the Company or any Committee, as estimated by such Professionals in good faith, for (i) accrued but uninvoiced fees and expenses and (ii) post-Effective Date activities, in each case in accordance with the terms of their applicable engagement or reimbursement letters.
Restructuring Fees and Expenses	The Company shall pay, or cause to be paid, immediately prior to the Petition Date, all reasonable and documented fees and expenses for which invoices or receipts are furnished at least one (1) Business Day prior thereto by the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (the "**Restructuring Fees and Expenses**"), including fees and expenses estimated to be incurred prior to the filing of the Chapter 11 Cases, in each case in accordance with the terms of their applicable engagement or reimbursement letters. As a condition precedent to the occurrence of the Effective Date, the Company will pay all Restructuring Fees and Expenses, including those fees and expenses estimated to be incurred through the Effective Date to the extent invoiced at least two (2) Business Days before the Effective Date.
Incentive Plans	Following the Effective Date, the New Board will adopt a post-Restructuring equity incentive plan ("**Incentive Plan**") comprised of the Management Incentive Plan and the Board Incentive Plan, under which up to 10.0% of the Newco Equity will be reserved for issuance as awards thereunder, of which 15.0-20.0% (*i.e.*, between 1.5%-2.0% of Newco Equity) will be reserved for issuance to nonemployee directors under the Board Incentive Plan and the remaining 80.0-85.0% of which (*i.e.*, between 8.0-8.5% of Newco Equity) will be reserved for issuance under the Management Incentive Plan (the "**MIP Award Pool**"). The MIP Award Pool shall be subject to customary equitable adjustments for changes in capitalization and other reorganization events. Any initial grants under the Management Incentive Plan to individuals party to an employment agreement or similar agreement or offer letter that provides for the grant of any equity interests or similar long-term compensation will be subject to agreement by such executive to (x) eliminate such provisions, to the extent still operative, and (y) accept that all long-term compensation going forward will be in the discretion of the New Board. Awards under the Incentive Plan will be partially time-vesting and partially

Summary of Prepetition Obligations and Interests	
	performance-vesting, on such terms as determined by the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). All other terms with respect to the Incentive Plan (including types of awards, allocations and performance thresholds) will be in the discretion of the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). Any amendment to alter the design of the Incentive Plan or to increase the share reserve available for issuance under the Incentive Plan following the Effective Date will require approval by the Evergreen Directors. The terms and conditions of the Board Incentive Plan shall be (i) agreed by a majority (in holdings or pro forma holdings of Newco Equity) of members of the Steering Committee and the Crossholder Group (each as defined in the Governance Term Sheet) and (ii) approved by the New Board following the Effective Date. The Board Incentive Plan shall provide equal compensation to all directors other than the chairman of the New Board; *provided* that any director who is employed by a stockholder of the Company (or an affiliate thereof) shall not be entitled to receive compensation under the Board Incentive Plan. Neither Skillsoft Corporation nor any of its affiliates shall pay an Exit Bonus, as defined in section 4 of the Employment Agreement dated July 9, 2018, if payable in connection with the Restructuring, in any amount in excess of the specified dollar amount set forth in the second line of section 4 of the Employment Agreement.
Tax Attributes	To the extent reasonably practicable, the Restructuring shall be structured in a manner which minimizes any current cash taxes payable by Company and the Consenting Creditors, if any, as a result of the consummation of the Restructuring. The terms of the Plan shall be structured to maximize the favorable tax attributes of the Reorganized Debtors going forward.
Indemnification	The Company's indemnification provisions currently in place (whether in the bylaws, certificates of incorporation (or other equivalent governing documents), or employment contracts) for current and former directors, officers, employees, managing agents, and professionals and their respective affiliates will be assumed by the Company and not modified in any way by the Restructuring through the Plan or the transactions contemplated thereby.
Transfer Restrictions	No restrictions, subject to applicable law.
Governance (Board Composition & Voting)	The organizational documents and/or stockholders agreement of Newco Parent shall provide, in all material respects, for the terms set forth in the Governance Term Sheet.
Releases and Exculpations	
Parties	The "**Released Parties**" and "**Exculpated Parties**" shall include the Company, the First Lien Agent, the Second Lien Agent, [CIT,] the Sponsor and the Evergreen Skills Entities (collectively, the "**Sponsor Entities**"), the Ad Hoc First Lien Group and its current and former members, the Ad Hoc Crossholder Group and its current and former members, and each of their respective current and former affiliates, subsidiaries, members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case in their respective capacities as such) and other persons and entities acceptable to the Company and the Requisite Creditors.

Summary of Prepetition Obligations and Interests	
	If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, then the "Released Parties" and the "Exculpated Parties" shall not include the Sponsor Entities and each of their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such); *provided* that releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps. The "**Releasing Parties**" means, collectively, (i) the holders of all Claims or Interests who vote to accept the Plan, (ii) the holders of all Claims or Interests whose vote to accept or reject the Plan is solicited but who do not vote either to accept or to reject the Plan, (iii) the holders of all Claims or Interests who vote, or are deemed, to reject the Plan but do not opt out of granting the releases set forth therein, (iv) holders of Claims or Interests who voted to reject this Plan but did not opt out of granting the releases set forth in the Plan, and (v) the Released Parties.
Releases by Debtors	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Releases by Holders of Claims and Interests	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely,

Summary of Prepetition Obligations and Interests	
	unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Exculpation	The Plan shall provide: To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Management Incentive Plan, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Schedule 1

Debtors

Accero, Inc.
Amber Holding Inc.
CyberShift, Inc.
CyberShift Holdings, Inc.
MindLeaders, Inc.
MindLeaders Ireland Learning Limited
Pointwell Limited
Skillsoft Canada, Ltd.
Skillsoft Corporation
Skillsoft Ireland Limited
Skillsoft Limited
Skillsoft U.K. Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
SumTotal Systems LLC
Thirdforce Group Limited

EXHIBIT E

GOVERNANCE TERM SHEET

POINTWELL LIMITED, *ET AL.*

Governance Term Sheet

June 12, 2020

This Governance Term Sheet[1] presents certain preliminary material terms in respect of the capital structure and governance of Newco Parent[2] (the "Company"), which will be reflected in definitive documentation to be negotiated, executed and delivered by the Debtors and the Consenting Creditors, subject in all respects to the terms of the Restructuring Support Agreement (the "RSA"). This Governance Term Sheet is not an exhaustive list of all the terms and conditions in respect of the governance of the Company.

CAPITALIZATION	
Capital Stock	***Authorized Shares***: The capital stock of the Company will consist of (i) [__] shares of common stock ("Common Stock") and (ii) 1,000,000 shares of "blank check" preferred stock ("Preferred Stock"), in each case, or the local law equivalent thereof. ***Common Stock***: An aggregate of [__] shares of Common Stock will be issued on the effective date of the reorganization (the "Effective Date") pursuant to the RSA. There will be one class of Common Stock, with one vote per share. ***Preferred Stock***: No shares of Preferred Stock will be issued on the Effective Date. The Board of Directors of the Company (the "Board") will have the power to issue and define the terms of any class or series of Preferred Stock following the Effective Date.
Warrants	Two tranches of warrants (collectively, the "Warrants") will be issued on the Effective Date, having the terms set forth on Exhibit F to the RSA.
BOARD OF DIRECTORS	
Number of Directors	The board of directors of the Company (the "Board") will initially consist of seven directors (each, a "Director").
Initial Composition of the Board	The Board shall initially be comprised of, and all stockholders will agree to vote their shares to elect, the following individuals: (i) the Chief Executive Officer of the Company; (ii) three Directors (each, an "SC Designated Director") nominated by the group of stockholders listed on Annex A hereto (such stockholders, collectively, the "Steering Committee"); (iii) two Directors (each, a "CHG Designated Director") nominated by the group of stockholders listed on Annex B hereto

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

[2] NTD: Newco Parent will be domiciled in Luxembourg. This Term Sheet remains subject to review and comment by local Luxembourg counsel, including to reflect necessary changes based on the final determination of entity type. The Company shall be treated as a corporation for tax purposes.

	(collectively, the "Crossholder Group"); and (iv) one "independent director"[3] (an "Independent Director") nominated by the mutual agreement of the Steering Committee and the Crossholder Group; provided, that the Independent Director shall serve as the Board's chairperson during the Initial Term; provided further that [Eaton Vance Management, Lodbrok Capital LLP and EQT][4] (such stockholders, the "Evergreen Stockholders") shall each have the right to nominate, in its sole discretion, one Director (an "Evergreen Director"; it being understood that the Evergreen Stockholders shall endeavor to name the Evergreen Directors to serve on the initial Board slate prior to the filing of the plan supplement; provided, further, that (x) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Steering Committee shall correspondingly reduce the number of SC Designated Directors and (y) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Crossholder Group shall correspondingly reduce the number of CHG Designated Directors.
Term	The initial Directors shall serve until the Company's annual meeting of stockholders held in 2021 (the "Initial Term"), after which all Directors will be elected at each annual meeting of stockholders to serve one-year terms (in each case unless earlier removed pursuant to the terms of the Company's governing documents, which terms will be mutually acceptable to the Steering Committee and the Crossholder Group).
Nomination of Directors[5]	Following the Initial Term, the following Directors shall be nominated for election at each annual meeting of the Company's stockholders or at a special meeting or by written consent of the stockholders at any time: (i) the Chief Executive Officer of the Company; (ii) the Evergreen Directors; provided that in the event the number of shares of Common Stock held by any Evergreen Stockholder (together with its affiliates) falls below 8% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Award Shares and shares of Common Stock underlying the Warrants (collectively, "Excluded Shares")), then from and after such time such Evergreen Stockholder shall no longer be entitled to nominate an Evergreen Director (it being understood that during the Initial Term the applicable Evergreen Director then serving on the Board shall retain his or her seat on the Board until the first annual meeting); provided that, notwithstanding the foregoing, in the event of

[3] NTD: The "independent director" shall qualify as "independent" as such term is used in the New York Stock Exchange rules.

[4] NTD: As of April 25, 2020, each of the Evergreen Stockholders was entitled to at least 10% of the outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares).

[5] NTD: Following the Initial Term, the Directors shall nominate, by majority vote, a chairperson to preside over meetings of the Board.

		an Evergreen Transfer (as defined below), the applicable transferee shall be considered an "Evergreen Stockholder" for all purposes hereof, other than the right to nominate an Additional Director;
	(iii)	if, following the Effective Date, any stockholder of the Company who was a lender under the First Lien Credit Agreement or the Second Lien Credit Agreement as of April 25, 2020 (including the Evergreen Stockholders), together with its affiliates, increases its holdings of Common Stock to at least 25% of the then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "25% Threshold"), such stockholder (a "Significant Stockholder") shall have the right to nominate two Directors (each, an "Additional Director") at the next annual meeting of the Company's stockholders at which Directors are to be elected or, following the Initial Term, at a special meeting, so long as such Significant Stockholder (together with its affiliates) holds at least 20% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "Additional Directors Floor"); provided that, in the event the number of shares of Common Stock held by a Significant Stockholder (together with its affiliates) falls below the Additional Directors Floor, then from and after such time such Significant Stockholder shall no longer be entitled to nominate any Additional Director; provided, however, that if any Significant Stockholder is also an Evergreen Stockholder, and was an Evergreen Stockholder on the Effective Date, then (x) such Significant Stockholder shall only have the right to nominate one Additional Director (for a total of two Directors) and (y) if the holdings of such Significant Stockholder (together with its affiliates) falls below the Additional Director Floor, then such Significant Stockholder will retain the right to designate an Evergreen Director, subject to the proviso set forth in clause (ii) above; and provided further, that the number of Independent Directors nominated pursuant to clause (iv) immediately below will be reduced, to a number not less than one, in order to accommodate each Additional Director nominated in accordance with the foregoing (and for the avoidance of doubt, if the nomination by a Significant Stockholder of an Additional Director would cause the total number of nominees to the Board to exceed seven, then such Significant Stockholder shall not be entitled to nominate such Additional Director until such time as a seat on the Board becomes available such that such nomination would not cause the total number of nominees to the Board to exceed seven); and
	(iv)	a number of Independent Directors required to fill the remaining seats on the Board, nominated by the stockholders

	collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that in no event will a number of Independent Directors be nominated that would result in the size of the Board exceeding seven Directors.
Voting for Directors	Directors shall be elected by stockholders collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that all stockholders shall be required to vote in favor of the election of the Chief Executive Officer and, to the extent nominated in accordance with clauses (ii) and (iii) of the above section titled "Nomination of Directors", the Evergreen Directors and any Additional Director.
Board Observers	In the event that an Evergreen Stockholder elects an Evergreen Director or Additional Director(s), as applicable, who are not employees of such Evergreen Stockholder or such Evergreen Stockholder's affiliates and who otherwise qualify as an Independent Director, then such Evergreen Stockholder shall also have the right to appoint one non-voting observer to the Board (an "Observer"); provided that any Observer shall execute a confidentiality agreement with the Company in a form reasonably satisfactory to the Company (it being understood that such confidentiality agreements will be in a form reasonably customary for such circumstances).
Removal of Directors	Any Director may be removed from office, either with or without cause, by an affirmative vote of stockholders owning a majority of the outstanding shares of Common Stock; provided that (i) during the Initial Term, a SC Designated Director may only be removed by the Steering Committee, a CHG Designated Director may only be removed by the Crossholder Group and the Independent Director may only be removed by the mutual agreement of the Steering Committee and the Crossholder Group; (ii) any Evergreen Director may only be removed by the applicable Evergreen Stockholder and (iii) any Additional Director may only be removed by the applicable Significant Stockholder; provided, further, that all stockholders shall be required to vote (as necessary) to remove any such SC Designated Director, CHG Designated Director, Independent Director, Evergreen Director or Additional Director, as applicable.
Board Vacancies	Any vacancy on the Board shall be filled by the stockholder(s) entitled to nominate the applicable Director in accordance with the nomination requirements described above in the sections titled "Initial Composition of Board" or "Nomination of Directors", as applicable, and all stockholders shall be required to vote (as necessary) to elect such person as a Director[6]; provided that, during the Initial Term, (i) any vacancy on the Board with respect to the SC Designated Directors shall be filled by

[6] NTD: For the avoidance of doubt, no vacancy will result in the event that an Evergreen Stockholder or Significant Stockholder fails to maintain its holdings at the level required in clause (ii) or clause (iii) of "Nomination of Directors", as applicable. Rather (subject to the rights of the Evergreen Stockholders during the Initial Term or with respect to an Evergreen Transfer), such Director seat shall be filled in accordance with clause (iv) of "Nomination of Directors".

	any remaining SC Designated Director(s), (ii) any vacancy on the Board with respect to the CHG Designated Directors shall be filled by any remaining CHG Designated Director, and (iii) any vacancy on the Board with respect to the Independent Director shall be filled by the mutual agreement of the SC Designated Directors and the CHG Designated Directors; provided, further, that, during the Initial Term, (x) if there are no remaining SC Designated Directors, then any such vacancy shall be filled by a majority in interest of the Steering Committee and (y) if there are no remaining CHG Designated Directors, then any such vacancy shall be filled by a majority in interest of the Crossholder Group.
Quorum	The presence of a majority of all Directors then serving on the Board shall constitute a quorum at any meeting of the Board.
Board Voting	All matters will require approval of a majority of the Board; provided that, until the third anniversary of the Effective Date, the following actions (the "Supermajority Matters") shall require the affirmative vote of at least five of seven Directors (or, in the event of a vacancy that remains unfilled for 6 months, an equivalent supermajority): (i) any proposed disposition of 35% or more of the equity interests, or a majority of the assets, of SumTotal Systems, LLC or any of its successors; (ii) the appointment, termination or removal of the Chief Executive Officer of the Company; (iii) (A) a refinancing of 100% of the Company's existing financing arrangements, or (B) the incurrence by the Company and/or its subsidiaries of indebtedness (other than pursuant to financing arrangements in existence on the Effective Date) in excess of $65,000,000, including a partial refinancing of existing indebtedness in excess of such amount; and (iv) any Preferred Stock capital raise in excess of $30,000,000.
Action by Written Consent	Any action by the Board may be taken by unanimous written consent in lieu of a meeting.
Board Committees	Board committees may be created by the Board. Committees are permitted to act in any manner only to the extent authorized by the Board and permitted by applicable law. Board committee composition to reflect the composition of the Board.
Subsidiary Boards	Any board of directors (or similar governing body) of any subsidiary of the Company shall be comprised of the same individuals then serving as Directors on the Board, in each case, unless otherwise agreed by the person or group nominating such individual.
Director Limitations	Notwithstanding anything herein to the contrary, in no event shall any individual be nominated or elected as a Director if such person is also (i) employed by a Competitor (as defined below), (ii) employed by an affiliate of a Competitor, or (iii) a holder of 10% or more of the outstanding equity of a Competitor, or if the election of such person would cause the Company to violate applicable law, including antitrust

	laws. "Competitor" shall mean a competitor of the Company as determined by the Board in its reasonable business judgment; provided, however, that in no event shall the members of the Steering Committee and the Crossholder Group (including such members' directors, officers, employees, agents and affiliates) be considered "Competitors".
STOCKHOLDER RIGHTS	
Annual Meetings	Each annual meeting of the Company's stockholders must be held within 13 months of the prior year's annual meeting.
Special Meetings	One or more stockholders (the "Requesting Stockholders") collectively holding at least 25% of the outstanding shares of Common Stock may call a special meeting of the stockholders. Special meetings must be held within 60 days of a request by the Requesting Stockholders.
Stockholder Proposals	At any meeting of stockholders, only the business brought forward by the Directors or the stockholders shall be decided. To submit business (i) for an annual meeting, a stockholder must provide notice not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting and (ii) for a special meeting, the Requesting Stockholders must provide notice in connection with their request for such meeting. In each case, stockholders must provide a description of business to be discussed along with information about their holdings and interests in the Company in the notice. There is no limit with respect to the number of matters that can be brought at a meeting.
Quorum	Stockholders holding a majority of the then-outstanding shares of Common Stock shall constitute a quorum. Unless otherwise required by law or the Company's governing documents, the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock present in person or voting by proxy shall be sufficient to take corporate action.
Stockholder Approval Matters	The following actions shall require the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock: (i) the matters set forth in clauses (i) and (iii) of the definition of "Supermajority Matters"; provided that stockholder approval shall not be required for any matter set forth in clause (iii)(A) of the definition of "Supermajority Matters", or for any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters" if, in the case of any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters", the proceeds of such financing are used for general corporate purposes; (ii) the issuance, in one or more related transactions, of any shares of Common Stock (or Preferred Stock or other securities convertible into or exchangeable for Common Stock) exceeding 20% of the then-outstanding shares of Common Stock; and

	(iii) following the 48-month anniversary of the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of all or substantially all of the assets and other similar change-of-control transactions).
Stockholder Action by Written Consent	Stockholders may take any action without a meeting if stockholders having at least the minimum number of votes required to take such action at a meeting at which all shares entitled to vote thereon were present and voted consent in writing (including by electronic submission), provided that prompt written notice of such action is provided to the non-consenting stockholders; and provided, further, that, except with respect to the election of Directors following the Initial Term in accordance with the above section titled "Nomination of Directors", such written notice will be delivered not less than [___] days following such action.
Transfers	Common Stock will be freely transferable, subject to compliance with applicable law. Notwithstanding the foregoing, holders of Common Stock (including Common Stock issuable upon exercise of Warrants) or Warrants shall not transfer any such Common Stock or Warrants, as applicable, if, in the Board's judgment, such transfer could, or may reasonably be expected to, result in an increase in the number of holders of record of such class of equity securities which would cause the Company to become required to register such securities under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). In the event that an Evergreen Stockholder transfers all of its Common Stock to an unaffiliated transferee and, at the time of such transfer, such Evergreen Stockholder is entitled to nominate an Evergreen Director in accordance with clause (ii) of the above section titled "Nomination of Directors" (such transfer, an "Evergreen Transfer"), then the right of such Evergreen Stockholder to nominate an Evergreen Director shall transfer to such unaffiliated transferee and all rights and limitations hereunder applicable to an Evergreen Stockholder (other than the right to nominate an Additional Director) shall apply to such transferee mutatis mutandis.
Sale of the Company	During the 48-month period following the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of a majority of the assets and other similar change-of-control transactions), will require the approval of the holders of 66 2/3% or more of the then-outstanding shares of Common Stock.
Drag-Along Right[7]	Subject to the stockholder approval rights set forth in the above sections titled "Reserved Matters" and "Sale of the Company", as applicable, the Company and stockholders will have customary drag-along rights (the "Drag-Along Rights") to require all stockholders to participate on a *pro*

[7] NTD: The definitive governance agreements will address the issue of non-cash consideration in drag or tag-along transactions and the ability of CLOs to participate in such transactions.

	rata basis in any merger, consolidation or other similar transaction or series of related transactions pursuant to which any person or group of persons acquires from the stockholders of the Company 50% or more of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) of all shares of Common Stock held by such selling stockholders to an unaffiliated third party in a bona fide transaction. The Drag-Along Rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders shall be in the same form and amount per share.
Tag-Along Right	Stockholders will have customary tag-along rights in the event that one or more stockholders wish to sell Common Stock representing at least [___]% of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) to an unaffiliated third party in a bona fide transaction (a "Tag-Along Sale"). Tag-along rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders participating in transactions subject to such tag-along rights shall be in the same form and amount per share. In the event of a Tag-Along Sale, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in the Tag-Along Sale with respect to the Common Stock received pursuant to such exercise.
Preemptive Rights	From and after the Effective Date and prior to a qualified IPO, holders of more than 1% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) will have customary preemptive rights on all issuances by the Company and its subsidiaries of equity and convertible debt securities (subject to customary exceptions.[8] In the event of any such issuance, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, exercise preemptive rights with respect to the Common Stock received pursuant to such exercise.
Information Rights	The Company shall provide all holders of more than 1.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) with both quarterly unaudited financial statements within a customary time period following each quarter's end and annual audited financial statements within a customary time period following each fiscal year's end (the foregoing financial statements provided to all stockholders, the "Financial Statements"); provided that the Company shall not provide such information to any stockholder that is a Competitor.[9] Information to be subject to customary confidentiality requirements. In addition, the Company will schedule a teleconference

[8] NTD: Ability to issue securities in the event emergency funding is required to be discussed in conjunction with the stockholders agreement and, unless such issuance is exclusively in the form of debt securities, all holders that were otherwise entitled to participate shall be provided with preemptive rights post-closing.

[9] NTD: Timing of information rights related deliveries to align with reporting requirements under credit documents of the Company and/or its subsidiaries.

	with (i) all holders of more than 3.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares), other than Competitors, and (ii) all holders of then-outstanding Common Stock who are also members of the Steering Committee and Crossholder Group as of the date of the RSA, between 5 and 15 business days after the delivery of each quarterly and annual financial report to discuss the Company's business, financial condition and financial performance, prospects, liquidity and capital resources.
Registration Rights	***Demand Registration Rights***: Following an initial public offering by the Company (an "IPO"), upon receipt of a demand by one or more holders collectively holding at least 10% of the outstanding shares of Common Stock (collectively, "Registrable Securities"), subject to mutually agreed restrictions regarding the aggregate number of demand rights and customary time limitations and suspension/blackout periods, the Company shall provide a notice to all holders of Registrable Securities to allow participation in a registration as selling holders. Amounts sold by selling holders will be *pro rata* based on the relative amounts of Registrable Securities held by them, subject to *pro rata* reduction based on any cap on the number of securities to be sold as advised by the underwriters, and subject to normal blackout provisions. For the avoidance of doubt, Warrants shall not be considered "Registrable Securities" hereunder. Notwithstanding the foregoing, following the Company's receipt of a demand in accordance with the preceding paragraph, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in such registration with respect to the Common Stock received pursuant to such exercise. ***Piggyback Registration Rights***: If the Company plans to file a registration statement (other than for an IPO or in other customary circumstances in which piggy-back rights are not appropriate), the Company shall provide a notice to all holders of Registrable Securities to offer participation in the registration as selling holders. The Company shall have the right to sell as many shares as the Company wants and any additional securities that may be sold as advised by the underwriters will be allocated among the participating selling holders on a *pro rata* basis based on the relative amounts of Registrable Securities held by them, in all cases subject to normal blackout provisions. ***Lock-Up***: Any reasonable lock-up requested by underwriters shall apply only to selling holders and, in connection with an IPO only, holders holding more than 5% of the outstanding shares of Common Stock. Registration Rights shall be provided pursuant to an agreement in reasonably customary form for transactions of this type.
OTHER	
Dividends	Subject to applicable law, the Board may declare and pay dividends upon the shares of the Company's capital stock.

Corporate Opportunities	No executive director or officer of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan. No non-executive director of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan, in each case, if, and only to the extent, such corporate opportunity was presented to, or acquired, created or developed by, or otherwise came into the possession of, such non-executive director expressly, solely and directly in such person's capacity as a director of the Company, unless a majority of disinterested Directors confirms that the Company (including its subsidiaries) will not pursue such opportunity. For the avoidance of doubt, no stockholder of the Company shall be restricted from pursuing any corporate opportunities, unless such stockholder is also a director or officer of the Company and/or its subsidiaries.
Related Party Transactions	Other than commercial transactions in the ordinary course of business consistent with past practice on arms'-length terms and the issuance of securities pursuant to the preemptive rights described above, the entering into of any transaction with (i) a stockholder, director or officer of the Company, (ii) any entity in which one or more stockholders, directors or officers of the Company owns, directly or indirectly, individually or in the aggregate, 5% or more of the outstanding equity securities of such entity or (iii) any "affiliate", "associate" or member of the "immediate family" (as such terms are respectively defined in rules and regulations under the Exchange Act) of any person described in the foregoing clauses (i) or (ii) shall, in each case, require the affirmative vote of a majority of Directors (excluding any Director who is, or is a related party of, the person with whom the Company or any of its subsidiaries is proposing to enter into the relevant transaction).
Amendments to Governing Documents	***Bylaws***: Subject to applicable law and the terms of the stockholder agreement to which the Company is party (the "Stockholder Agreement") and the Company's certificate of incorporation (as amended, the "Charter"), the bylaws of the Company (the "Bylaws") may be amended or repealed, or new Bylaws adopted, by either the Board or stockholders holding a majority of outstanding shares of Common Stock. ***Charter***: Any amendment to the Charter shall be made in accordance with applicable law. ***Stockholder Agreement***: Amendments to provisions of the Stockholder Agreement shall require the prior consent of stockholders holding (a) 66 2/3% of the then-outstanding shares of Common Stock, with respect to amendments to provisions of the Stockholder Agreement related to: (i) Board participation rights; (ii) size of the Board; (iii) supermajority Board approval rights; (iv) stockholder approval rights; (v) Tag-Along Sale rights; (vi) sale of the Company approval rights; (vii) preemptive rights; and (viii) registration rights and (b) a majority of the then-outstanding shares of Common Stock for all other amendments (in

	either case of (a) or (b), the "Amendment Threshold"); provided that (i) no amendment may adversely affect a stockholder relative to other stockholders without such stockholder's specific written consent; (ii) any amendment to the provisions of the Stockholder Agreement regarding the rights of one or more stockholders to nominate Directors shall require the written consent of all such nominating stockholders; and (iii) no provision of the Stockholder Agreement which requires the consent of stockholders owning more than the Amendment Threshold to take the action described therein may be amended without the consent of stockholders owning such higher percentage of shares of Common Stock. Upon an IPO, the Stockholder Agreement (other than provisions relating to registration rights) shall terminate. In the event of a conflict between the Stockholder Agreement, on the one hand, and the Bylaws or the Charter, on the other hand, the Stockholder Agreement will prevail, and the stockholders will take all actions necessary to amend the Charter and/or Bylaws to the extent necessary to conform to the relevant terms of the Stockholder Agreement.

ANNEX A

Steering Committee

- Alcentra Limited
- Apollo Capital Management, L.P.
- Benefit Street Partners L.L.C.
- DDJ Capital Management, LLC
- Eaton Vance Management, Boston Management and Research, Calvert Research and Management
- PGIM, Inc.
- Symphony Asset Management LLC
- Voya Investment Management Co, LLC

ANNEX B

Crossholder Group

- CRF2 SA, CRF3 Investments I S.à.r.l., EAD Credit Investments I SARL, and Empire Credit Investments I SARL (collectively, "EQT")
- Lodbrok Capital LLP
- Signature Global Asset Management, a division of CI Investments Inc.
- MS Capital Partners Adviser Inc.

EXHIBIT F

WARRANT TERM SHEET

Warrant Term Sheet[1][2]

June 12, 2020

This Warrant Term Sheet, which is Exhibit F to a Restructuring Support Agreement dated June 12, 2020 (the "***Restructuring Support Agreement***"), by and among Pointwell Limited and certain of its affiliates and subsidiaries, the Agent, and the Consenting Lenders, describes the material terms relating to warrants to be issued by Newco Parent that would be issued in connection with the consummation of the Restructuring.[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Restructuring Support Agreement.

THIS WARRANT TERM SHEET IS PRESENTED FOR DISCUSSION AND SETTLEMENT PURPOSES AND IS ENTITLED TO PROTECTION FROM ANY USE OR DISCLOSURE TO ANY PERSON PURSUANT TO RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER RULE OF SIMILAR IMPORT.

THIS WARRANT TERM SHEET DOES NOT PURPORT TO SUMMARIZE ALL OF THE TERMS, CONDITIONS, COVENANTS AND OTHER PROVISIONS THAT MAY BE CONTAINED IN THE FULLY NEGOTIATED AND EXECUTED DEFINITIVE DOCUMENTATION IN CONNECTION WITH THE ISSUANCE OF WARRANTS. THIS WARRANT TERM SHEET AND THE INFORMATION CONTAINED HEREIN SHALL REMAIN STRICTLY CONFIDENTIAL.[4]

Term	Description
Issuer:	Newco Parent (such entity, "***Issuer***").[5]
Warrants:	On the Effective Date (the "***Effective Date***"), Issuer will issue the following two tranches of warrants (collectively, the "***New Warrants***") to the holders thereof (collectively, the "***Holders***"): - ***Tranche A Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche A Warrants, common stock of Issuer ("***New Common Stock***") representing in the aggregate 5% of the total outstanding New Common Stock; and - ***Tranche B Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche B Warrants, New Common Stock representing in the aggregate 10% of the total outstanding New Common Stock. For purposes of calculating the percentage of New Common Stock issued upon exercise of the New Warrants, the total outstanding New Common Stock shall be calculated as of the Effective Date and assuming the exercise of all such New Warrants (but excluding any New Common Stock issued or reserved for issuance under any management and/or board incentive plan implemented by Issuer).[6]

Exercise Price:	The exercise price for the New Warrants (the "***Exercise Price***") will be fixed as of the Effective Date (as may be thereafter adjusted as set forth under "Fundamental Transaction" and "Anti-Dilution" below) and shall be as follows: - To the extent that the Holder elects to exercise the Tranche A Warrants: a price per share equal to [___][7] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium; and - Tranche B Warrants: a price per share equal to [___] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium.[8][9]
Term:	The New Warrants will expire on the earlier of (x) the fifth (5th) anniversary of the Effective Date and (y) the consummation of a Fundamental Transaction (as defined below) (the "***Expiration Date***"). Upon the fifth (5th) anniversary of the Effective Date, each outstanding New Warrant shall automatically be deemed to be exercised on a "cashless basis"[10] (as described below).
Fundamental Transaction:	Each New Warrant shall be automatically exercised immediately prior, but subject to, the consummation of a Fundamental Transaction on a "cashless basis" (as described below) and each Holder shall participate in such Fundamental Transaction with respect to the shares of New Common Stock issuable upon such exercise.[11] The exercise price applicable to such exercise will be the lesser of (i) the then-current Exercise Price, and (ii) a Black Scholes Adjusted Exercise Price (which will be a price calculated to provide to each Warrant holder ordinary shares which, when exchanged for the Fundamental

[1] **Note to Draft**: Subject to review in connection with ongoing structuring discussions.

[2] **Note to Draft:** Subject to review by Luxembourg counsel to the Company.

[3] **Note to Draft:** All definitions subject to alignment with RSA.

[4] The terms of the New Warrants remain subject to revision for reconciliation with applicable Luxembourg law.

[5] Issuer to be top entity in post-reorganization structure.

[6] Subject to revision for reconciliation with applicable Luxembourg law.

[7] **Note to Draft**: Price per share should reflect an amount that will equal 105% recovery to the 1L lenders on converted face amount.

[8] **Note to Draft**: Price per share should reflect an amount that will equal 110% recovery to the 1L lenders on converted face amount.

[9] **Note to Draft**: Par value must be set and remain at a point that causes the maximum cash exercise price for all Warrants not to exceed [$100].

[10] Subject to revision for reconciliation with applicable Luxembourg law.

[11] **Note to Draft**: Parties to address potential competition law filings to resulting from actual issuance of shares in this context.

	Transaction consideration per ordinary share (the "***Transaction Consideration***"), will cause the holder to realize, net of the Black Scholes Adjusted Exercise Price, a net Fair Market Value of the Transaction Consideration equal to the Black Scholes Value per share of each Warrant). As used herein, "***Fundamental Transaction***" means any (i) merger, consolidation, amalgamation or other similar transaction or series of related transactions to which the Issuer is a party and pursuant to which (A) an existing Stockholder (or its affiliate, or other person comprising an existing stockholder and one or more of its affiliates) acquires 90% or more of the voting power of the outstanding securities of the Issuer or (B) the "beneficial owners" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended) of the outstanding equity securities of Issuer immediately prior to such transaction "beneficially own" in the aggregate less than 50% of the voting power of the outstanding equity securities of the surviving entity immediately following such transaction, (ii) sale, transfer or disposition of all or substantially all of Issuer's assets (by value), which is consummated with a third-party who is unaffiliated with Issuer (other than a stockholder who is affiliated with the Issuer) at the time of such transaction, or (iii) voluntary or involuntary dissolution, liquidation or winding-up of Issuer, in each of cases (i)-(iii), which is effected in such a way that the holders of New Common Stock receive or are entitled to receive (either directly or upon subsequent liquidation) cash, stock, securities or other assets or property with respect to or in exchange for New Common Stock. As used herein, "***Black Scholes Value***" means the value of the unexercised portion of any New Warrants remaining on the date of any Holder's notice of election, which value shall be determined by an investment banking firm or independent third-party appraiser, in each case of nationally recognized standing (the "***Appraiser***") using the Black Scholes Option Pricing Model for a "call" option, as obtained from the "OVME" function on Bloomberg, L.P. subject to the following assumptions: (i) an underlying price per share equal to the sum of the price per share of New Common Stock being offered in cash in the applicable Fundamental Transaction (if any) *plus* the Fair Market Value of the non-cash consideration being offered to holders with respect to each share of New Common Stock in the applicable Fundamental Transaction (if any), (ii) a strike price equal to the Exercise Price in effect on the date of the Holder's notice of election, (iii) a risk-free interest rate corresponding to the interpolated rate on the United States Treasury securities with a maturity closest to the remaining term of the New Warrant as of the date of consummation of the applicable Fundamental Transaction, (iv) a zero cost of borrow and (v) an expected volatility equal to 35%. For purposes of determining the Black Scholes Value and the Fair Market Value (as described below), the Appraiser shall be selected by the Independent Director (as defined in the Governance Term Sheet) or, if there is more than one Independent Director on the New Board at such

	time, a majority of such Independent Directors, in each case at the sole cost and expense of the Issuer.[12]
Exercise; Payment of Exercise Price:	The New Warrants shall be exercisable, at the option of the Holder thereof, at any time prior to the Expiration Date, in whole or in part, into New Common Stock, by delivering to Issuer such New Warrant(s), together with a notice of exercise of such New Warrant(s). The issuance of New Common Stock pursuant to the exercise of New Warrants (collectively, the "***Warrant Shares***") shall be subject to payment in full by the Holder of the applicable Exercise Price either (i) by delivery to Issuer of a certified or official bank check or by wire transfer of immediately available funds in the amount of the aggregate Exercise Price for such Warrant Shares or (ii) on a "cashless basis" by paying the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) as follows: (i) payment by the Holder of the par value of the Warrant Shares in cash, and (ii) payment of the difference of the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) by instructing Issuer to withhold a number of Warrant Shares (or fraction thereof) then issuable upon exercise of such New Warrant(s) with an aggregate Fair Market Value as of the Exercise Date equal to such aggregate Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) (in either case, less the amount of the cash exercise payment). For purposes of such a "cashless" exercise, the value of the Warrant Shares withheld will be calculated based on the per share fair market value ("***Fair Market Value***") of New Common Stock: (a) if the Warrant Shares are then listed for trading on a national securities exchange, based on the 30 consecutive trading day volume weighted average closing price as of such date or (b) if the Warrant Shares are not so listed for trading on a national securities exchange, as determined by the Appraiser.[13]
Stockholder Rights:	Neither the New Warrants nor anything contained in the definitive documentation for the New Warrants shall be construed as conferring upon the Holders thereof (i) the right to vote, participate, consent or receive notice as a holder of New Common Stock in respect of any meeting of holders of New Common Stock for the election of directors of Issuer or any other matter, (ii) the right to receive dividends or other distributions as a holder of New Common Stock, or (iii) any other rights of a stockholder, whether or not granted to holders of New Common Stock under Issuer's governing documents.
Issuer Obligation:	The Issuer shall ensure that it at all times maintains an authorized share capital equivalent to the number of outstanding New Warrants to ensure that exercise of same may be completed at any time prior to the Expiration Date.

[12] Subject to revision for reconciliation with applicable Luxembourg law.

[13] Subject to revision for reconciliation with applicable Luxembourg law.

Anti-Dilution:	The New Warrants will be subject to (i) dilution by the management and board incentive plans, consistent with the Restructuring Term Sheet and (ii) customary adjustments (an "***Anti-Dilution Adjustment***") for (a) the subdivision or combination of the New Common Stock underlying the New Warrants, (b) the payment by Issuer of dividends or other distributions on the outstanding New Common Stock in Issuer payable in New Common Stock, other shares of capital stock of Issuer, rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock, or in cash or other property and (c) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock; provided, however, there shall be no Anti-Dilution Adjustment to the Warrants (x) for any (1) payment by Issuer of dividends or other distributions on the outstanding New Common Stock of Issuer payable in rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock (a "***Below FMV Issuance***") to the extent such rights are offered solely to holders of New Common Stock that are also New Warrant holders, or (2) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock (an "***Above FMV Repurchase***") to the extent such repurchase solely applies to shares of New Common Stock held by holders of New Common Stock that are also New Warrant holders or (y) with respect to any Below FMV Issuance or Above FMV Repurchase approved by the New Board if, at the time of such approval, a majority of the New Board comprises representatives of EQT (as defined in the Governance Term Sheet), Lodbrok Capital LLP, their respective affiliates or the transferees of New Warrants from any of the foregoing. In addition, in the event of any (i) reclassification of the New Common Stock, (ii) consolidation or merger of Issuer with or into another person or (iii) other similar transaction, in each case which (x) does not constitute a Fundamental Transaction and (y) entitles the holders of New Common Stock to receive (either directly or upon subsequent liquidation and whether in whole or in part) securities or other assets in exchange for the New Common Stock, the New Warrants shall, immediately after such transaction, remain outstanding and shall thereafter, in lieu of the number of shares of New Common Stock then issuable upon exercise of the New Warrants, be exercisable for the kind and number of securities or other assets resulting from such transaction which the Holders would have received upon consummation of such transaction if the Holders had exercised the New Warrants in full immediately prior to the time of such transaction and acquired the applicable number of shares of New Common Stock then issuable upon exercise of the New Warrants as a result of such exercise.[14] For purposes of any Anti-Dilution Adjustment, the "Fair Market Value" of New Common Stock shall be determined in the same manner as

[14] Subject to revision for reconciliation with applicable Luxembourg law.

	described above with respect to the Fair Market Value of Warrant Shares.
Transferability:	The New Warrants shall be transferrable, subject to applicable securities laws (including securities laws applicable to the Issuer as a private company) and such restrictions as are in effect in respect of the New Common Stock.
Amendment:	The terms and conditions of the New Warrants may be amended (i) within the first year following the Effective Date, by vote of more than 66.7% of the Board members appointed by shareholders other than the members of the Ad Hoc Crossholder Group and (ii) after the first anniversary of the Effective Date, by vote of 5 of 7 members of the New Board; *provided* that any amendment that would affect the Exercise Price, number of Warrant Shares for which the New Warrants may be exercised, or would materially and adversely affect the Holders shall require the affirmative vote or written consent of the Holders of a majority of the outstanding New Warrants.[15]
Governing Law:	Luxembourg[16]

[15] Subject to revision for reconciliation with applicable Luxembourg law. The amendment provisions of the New Warrants to contain a power of attorney to permit such provisions to function without requiring consent by all contracting parties.

[16] Power of attorney function is intended to address the concern about amendments.

EXHIBIT G

FORM OF JOINDER AGREEMENT FOR CONSENTING CREDITORS

This Joinder Agreement to the Restructuring Support Agreement, dated as of June 12, 2020 (as amended, supplemented, or otherwise modified from time to time, the "**Agreement**"), by and among the Company and the Consenting Creditors, is executed and delivered by _____ (the "**Joining Party**") as of [●], 2020. Each capitalized term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. Agreement to be Bound. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Annex I (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be (i) a "Consenting First Lien Creditor" and/or a "Consenting Second Lien Creditor," (ii) a "Consenting Creditor," and (iii) a "Party" for all purposes under the Agreement and with respect to any and all Claims and Interests held by such Joining Party.

2. Representations and Warranties. With respect to the aggregate principal amount of the First Lien Debt, the Second Lien Debt, and Interests, in each case, set forth below its name on the signature page hereto, the Joining Party hereby makes the representations and warranties of the Consenting Creditors set forth in Section 7 and Section 21 of the Agreement to each other Party to the Agreement.

3. Governing Law. This Joinder Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date written above.

CONSENTING CREDITOR

By: _____

Name: _____

Title: _____

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

Fax:_____
Attention:_____
Email:_____

Acknowledged:

[●]

By:_____
Name:
Title:

EXHIBIT "I"

Copy of the *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors*

(*See attached*)

Docket #0017 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
	:	
	:	**(Joint Administration Requested)**
Debtors.[1]		
	:	

JOINT PREPACKAGED CHAPTER 11 PLAN OF SKILLSOFT CORPORATION AND ITS AFFILIATED DEBTORS

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Proposed Counsel for the Debtors and Debtors in Possession

Dated June 14, 2020
Wilmington Delaware

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Each of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc. (U.S.); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd (each, a "**Debtor**" and collectively, the "**Company**" or the "**Debtors**") propose the following joint prepackaged chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in section 1.1 below.

ARTICLE I. DEFINITIONS AND INTERPRETATION.

1.1 Definitions.

The following terms shall have the respective meanings specified below:

"Adequate Protection Payments" has the meaning set forth in the DIP Orders, as applicable.

"Ad Hoc Crossholder Group" has the meaning set forth in the Restructuring Support Agreement.

"Ad Hoc First Lien Group" has the meaning set forth in the Restructuring Support Agreement.

"Administrative Expense Claim" means any Claim (other than DIP Claims) for costs and expenses of administration of the Chapter 11 Cases pursuant to sections 503(b), 507(a)(2), or 507(b) of the Bankruptcy Code, including (i) the actual and necessary costs and expenses incurred on or after the Petition Date and through the Effective Date of preserving the Estates and operating the Debtors' businesses, (ii) Fee Claims, and (iii) Restructuring Fees and Expenses.

"Allowed" means, with respect to any Claim against or Interest in a Debtor, (i) any Claim that is not Disputed to which the Debtors and the holder of the Claim agree to the amount of the Claim or a court of competent jurisdiction has determined the amount of the Claim by Final Order, (ii) any Claim or Interest that is compromised, settled, or otherwise resolved pursuant to (a) the terms of this Plan, (b) any stipulation filed with or Final Order entered by the Bankruptcy Court, or (c) the terms of any contract, instrument, indenture, or other agreement entered into or assumed in connection herewith (iii) any Claim that is listed in the Schedules, if filed, as liquidated, non-contingent, and undisputed, or (iv) any Claim or Interest expressly allowed hereunder; *provided*, *however*, that, the Reorganized Debtors shall retain all claims and defenses with respect to Allowed Claims that are reinstated or otherwise Unimpaired pursuant to this Plan.

"Asset" means all of the rights, title, and interests of a Debtor in and to property of whatever type or nature, including real, personal, mixed, intellectual, tangible, and intangible property.

"Bankruptcy Code" means title 11 of the United States Code, as amended from time to time, as applicable to these Chapter 11 Cases.

"Bankruptcy Court" means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made under section 157 of title 28 of the United States Code or if the Bankruptcy Court is determined not to have authority to enter a Final Order on an issue, the unit of such District Court having jurisdiction over the Chapter 11 Cases under section 151 of title 28 of the United States Code.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time and as applicable to the Chapter 11 Cases.

"Board Incentive Plan" or "**BIP**" means a post-Effective Date board of directors incentive plan, consistent in all material respects with the terms set forth on the Reorganization Term Sheet, subject to compliance with Luxembourg law.

"Business Day" means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are authorized or required by law or other governmental action to close.

"Canadian Plan Confirmation Recognition Order" has the meaning set forth in the Restructuring Support Agreement.

"Cash" means legal tender of the United States of America.

"Cause of Action" means any action, claim, cross-claim, third-party claim, cause of action, controversy, dispute, demand, right, lien, indemnity, contribution, guaranty, suit, obligation, liability, loss, debt, fee or expense, damage, interest, judgment, cost, account, defense, remedy, offset, power, privilege, proceeding, license, and franchise of any kind or character whatsoever, known, unknown, foreseen or unforeseen, existing or hereafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively (including any alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law (including under any state or federal securities laws). For the avoidance of doubt, Cause of Action also includes (i) any right of setoff, counterclaim, or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity, (ii) the right to object to Claims or Interests, (iii) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code, (iv) any claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code, and (v) any state law fraudulent transfer, fraudulent conveyance, or voidable transfer claim.

"Chapter 11 Case" means, with respect to a Debtor, such Debtor's case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Bankruptcy Court, jointly administered with all other Debtors' cases under chapter 11 of the Bankruptcy Code.

"Claim" means a "claim," as defined in section 101(5) of the Bankruptcy Code, against any Debtor.

"Class" means any group of Claims or Interests classified under this Plan pursuant to section 1123(a)(1) of the Bankruptcy Code.

"Collateral" means any Asset of an Estate that is subject to a Lien securing the payment or performance of a Claim, which Lien is not invalid and has not been avoided under the Bankruptcy Code or applicable nonbankruptcy law.

"Company" has the meaning set forth in the introductory paragraph of this Plan.

"Confirmation Date" means the date on which the Bankruptcy Court enters the Confirmation Order within the meaning of Bankruptcy Rules 5003 and 9021.

"Confirmation Hearing" means the hearing to be held by the Bankruptcy Court regarding approval of the Disclosure Statement and confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

"Confirmation Order" means the order of the Bankruptcy Court (i) approving (a) the Disclosure Statement pursuant to sections 1125 and 1126(b) of the Bankruptcy Code, (b) the solicitation of votes and voting procedures, and (c) the form of ballots, and (ii) confirming this Plan pursuant to section 1129 of the Bankruptcy Code, with such order being consistent with the Restructuring Support Agreement and subject to the Definitive Document Requirements.

"Consenting Creditor Advisors" has the meaning set forth in the Restructuring Support Agreement.

"Consenting Creditors" has the meaning set forth in the Restructuring Support Agreement.

"Credit Agreements" means the First Lien Credit Agreement and the Second Lien Credit Agreement.

"Cure Amount" means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (i) cure a monetary default by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors and (ii) permit the Debtors to assume such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

"Debtor(s)" has the meaning set forth in the introductory paragraph of this Plan.

"Definitive Document Requirements" means that the Definitive Documents shall be subject to the respective consent rights of the Debtors and the applicable Consenting Creditors, as set forth in the Restructuring Support Agreement.

"Definitive Documents" has the meaning set forth in the Restructuring Support Agreement.

"DIP Agent" means Wilmington Savings Fund Society, FSB, solely in its capacity as administrative agent and collateral agent under the DIP Facility, or its successors, assigns, or any replacement agent appointed pursuant to the terms of the DIP Credit Agreement.

"DIP and Exit Facility Term Sheet" means that certain term sheet (including any schedules and exhibits thereto) annexed to the Restructuring Term Sheet as Exhibit C.

"DIP Claim" means all Claims held by the DIP Secured Parties on account of, arising under, or relating to the DIP Credit Agreement, the DIP Facility, or the DIP Orders, including Claims for all principal amounts outstanding, interest, reasonable and documented fees, expenses, costs, and other charges of the DIP Secured Parties.

"DIP Credit Agreement" means that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, to be dated after the Petition Date (as the same may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof), by and among, Skillsoft Corporation, as borrower, Pointwell, as parent, the DIP Lenders, the DIP Agent, and the DIP Escrow Agent, which shall be subject to the Definitive Document Requirements.

"DIP Escrow Agent" means Wilmington Savings Fund Society, FSB, solely in its capacity as escrow agent under the DIP Facility, or its successors, assigns, or any replacement agent appointed pursuant to the terms of the DIP Credit Agreement.

"DIP Facility" means the debtor-in-possession financing facility provided to the Company pursuant to (i) the DIP Credit Agreement and (ii) the DIP Orders.

"DIP Financing Documents" has the meaning set forth in the Restructuring Support Agreement.

"DIP Lenders" means lenders from time to time party to the DIP Credit Agreement.

"DIP Orders" means, collectively, (i) the Interim Order (I) Authorizing Debtors (A) to Obtain Postpetition Financing and (B) to Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims and (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief and (ii) a Final Order entered by the Bankruptcy Court authorizing the Debtors to enter into the DIP Credit Agreement and access the DIP Facility, which DIP Orders shall be in form and substance reasonably acceptable to the DIP Lenders.

"DIP Secured Parties" means, collectively, the DIP Agent, the DIP Escrow Agent, and the DIP Lenders.

"Disbursing Agent" means any Entity in its capacity as a disbursing agent under section 6.6 hereof, including any Debtor or Reorganized Debtor, as applicable, that acts in such capacity to make distributions pursuant to this Plan.

"Disclosure Statement" means the disclosure statement for this Plan, including all exhibits, schedules, supplements, modifications, amendments, and annexes thereto, each as supplemented from time to time, which is prepared and distributed in accordance with sections 1125, 1126(b), or 1145 of the Bankruptcy Code, Bankruptcy Rules 3016 and 3018, or other applicable law.

"Disputed" means, with respect to a Claim, (i) any Claim, which Claim is disputed under ARTICLE VII of this Plan or as to which the Debtors have interposed and not withdrawn an objection or request for estimation that has not been determined by a Final Order, (ii) any Claim, proof of which was required to be filed by order of the Bankruptcy Court but as to which a proof of claim was not timely or properly filed, (iii) any Claim that is listed in the Schedules, if filed, as unliquidated, contingent or disputed, and as to which no request for payment or proof of claim has been filed, or (iv) any Claim that is otherwise disputed by any of the Debtors or Reorganized Debtors in accordance with applicable law or contract, which dispute has not been withdrawn, resolved or overruled by a Final Order. To the extent the Debtors dispute only the amount of a Claim, such Claim shall be deemed Allowed in the amount the Debtors do not dispute, if any, and Disputed as to the balance of such Claim.

"Distribution Record Date" means, except as otherwise provided in this Plan or the Plan Documents, the Effective Date.

"DTC" means Depository Trust Company, a limited-purpose trust company organized under the New York State Banking Law.

"Effective Date" means the date which is the first Business Day on which (i) all conditions to the effectiveness of this Plan set forth in section 9.1 of this Plan have been satisfied or waived in accordance with the terms of this Plan and (ii) no stay of the Confirmation Order is in effect.

"Entity" has the meaning set forth in section 101(15) of the Bankruptcy Code.

"Estate(s)" means individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

"Evergreen Skills Entities" means Holdings, the Lux Borrower, Evergreen Skills Holding Lux, and Evergreen Skills Top Holding Lux.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exculpated Parties" means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers,

employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such).

"Existing Parent Equity Interests" means the entire issued share capital of the Parent.

"Exit A/R Agent" means CIT Bank, N.A. in its capacity as agent under the Exit A/R Facility Agreement.

"Exit A/R Borrower" means Skillsoft Receivables Financing LLC in its capacity as borrower under the Exit A/R Facility Agreement.

"Exit A/R Facility Agreement" means the credit agreement to be entered into prior to the Effective Date among Exit A/R Borrower, the lenders party thereto, and the Exit A/R Agent to provide an accounts receivable financing facility in a principal amount up to $75 million.

"Exit Credit Agreement" means that certain term loan credit agreement, dated as of the Effective Date (as the same may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof), containing terms substantially consistent with the DIP and Exit Facility Term Sheet with respect to the Exit Credit Facility, which shall be subject to the Definitive Document Requirements.

"Exit Credit Facility" means the term loan facility encompassing the New First Out Term Loan Facility and the New Second Out Term Loan Facility to be provided to the Company on the Effective Date pursuant to the Exit Credit Agreement.

"**Exit Credit Agreement Agent**" means the administrative agent and collateral agent under the Exit Credit Agreement.

"Fee Claim" means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Confirmation Date by Professional Persons.

"Final Order" means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought,

such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing shall have expired; *provided*, *however*, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure, under any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or under sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

"First Lien Agent" means Wilmington Savings Fund Society, FSB, solely in its capacity as administrative agent and collateral agent under the First Lien Credit Agreement, or its successors, assigns, or any replacement agent appointed pursuant to the terms of the First Lien Credit Agreement.

"First Lien Credit Agreement" means that certain First Lien Credit Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among Holdings, as holdings; Lux Borrower, Skillsoft Canada Ltd., and Skillsoft Corporation, as borrowers; the First Lien Agent; the First Lien Lenders; and the other parties thereto from time to time.

"First Lien Debt Claim" means all Secured and deficiency Claims on account of, arising under, or relating to the First Lien Credit Agreement, including without limitation any accrued and unpaid principal, interest and fees as of the Petition Date.

"First Lien Lenders" means the lenders party to the First Lien Credit Agreement from time to time.

"General Unsecured Claim" means any prepetition, general unsecured Claim, excluding Claims held by one or more Debtors, Claims held by one or more non-Debtor affiliates of Parent (including Claims held by the Evergreen Skills Entities and/or the Sponsor or its affiliates), First Lien Debt Claims, Second Lien Debt Claims, Administrative Expense Claims, Priority Tax Claims, Priority Non-Tax Claims, and Subordinated Claims.

"Governmental Unit" has the meaning set forth in section 101(27) of the Bankruptcy Code.

"Holdings" means Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054.

"Impaired" means, with respect to a Claim, Interest, or a Class of Claims or Interests, "impaired" within the meaning of such term in section 1124 of the Bankruptcy Code.

"Incentive Plans" means the Board Incentive Plan and the Management Incentive Plan.

"Intercompany Claim" means any prepetition Claim against one or more Debtors held by another Debtor or by a non-Debtor affiliate of Parent, including any Claims held by Holdings, the Lux Borrower, or any other Evergreen Skills Entities.

"Intercompany Interest" means any means any prepetition Interest in a Debtor held by another Debtor or by a non-Debtor affiliate of Parent (excluding the Evergreen Skills Entities and the Sponsor).

"Interest" means any equity security (as defined in section 101(16) of the Bankruptcy Code) of any Debtor, including all ordinary shares, units, common stock, preferred stock, membership interest, partnership interest or other instrument, evidencing any fixed or contingent ownership interest in such Debtor, whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated "stock" or a similar security, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest in a Debtor, that existed immediately before the Effective Date.

"Lien" has the meaning set forth in section 101(37) of the Bankruptcy Code.

"Lux Borrower" means Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790.

"Management Incentive Plan" or "**MIP**" means a post-Effective Date management incentive plan consistent in all material respects with the terms in the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

"New Board" means the board of directors of Newco Parent as of the Effective Date.

"New Corporate Governance Documents" means the applicable Organizational Documents and stockholders agreement (if applicable) of Newco Parent, in each case, consistent with the Governance Term Sheet and subject to the Definitive Document Requirements.

"New First Out Term Loan Commitment" means the commitment to provide the amounts contemplated under the New First Out Term Loan Facility.

"New First Out Term Loan Facility" means a new "first out" term loan facility under the Exit Credit Agreement pursuant to which, as of the Effective Date, New First Out Term Loans will be borrowed in an aggregate principal amount equal to the sum of (i) the aggregate principal amount outstanding under the DIP Facility as of ten days prior to the Effective Date (the "**Converted DIP Facility Loans**") (which converted DIP Facility Loans shall be converted into New First Out Term Loans) and (ii) Cash in an amount equal to $110 million less the amount of the Converted DIP Facility Loans. Ten days prior to the Effective Date, the Debtors shall provide the Consenting Creditors with an estimate of Converted DIP Facility Loans as of the Effective Date.

"New First Out Term Loans" means the term loans to be issued under the New First Out Term Loan Facility.

"New Second Out Term Loan Facility" means a new "second out" term loan facility under the Exit Credit Agreement pursuant to which New Second Out Term Loans will be borrowed in an aggregate principal amount of $410 million.

"New Second Out Term Loans" means the term loans to be issued under the New Second Out Term Loan Facility.

"**Newco Borrower"** means a newly-formed entity organized under the laws of Luxembourg that will directly own 100% of the equity interests of the Reorganized Parent.

"Newco Equity" means the equity interests of Newco Parent to be issued in connection with implementation of the Plan.

"Newco Parent" means a newly-formed entity organized under the laws of Luxembourg that will directly or indirectly own 100% of the equity interests of the Reorganized Parent and be treated as a corporation for tax purposes, as set forth in the Restructuring Transaction Steps.

"Organizational Documents" means, of any Person, the forms of certificates or articles of incorporation, certificates, or articles of formation, bylaws, constitutions, limited liability company agreements, or other forms of organization documents of such Person.

"Other Equity Interests" means all Interests other than Existing Parent Equity Interests and Intercompany Interests.

"Other Priority Claim" means any Claim other than an Administrative Expense Claim, a DIP Claim, or a Priority Tax Claim that is entitled to priority of payment as specified in section 507(a) of the Bankruptcy Code.

"Other Secured Claim" means any Secured Claim other than a Priority Tax Claim, a DIP Claim, a First Lien Debt Claim, or a Second Lien Debt Claim.

"Parent" means Pointwell Limited.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited partnership, trust, estate, unincorporated organization, Governmental Unit, or other Entity.

"Petition Date" means, with respect to a Debtor, the date on which such Debtor commenced its Chapter 11 Case.

"Plan Distribution" means the payment or distribution of consideration to holders of Allowed Claims and Allowed Interests under this Plan.

"Plan Document" means any Definitive Document.

"Plan" means this joint prepackaged chapter 11 plan, including all appendices, exhibits, schedules, and supplements hereto (including any appendices, schedules, and supplements to this Plan contained in the Plan Supplement), as may be modified from time to time in accordance with the Bankruptcy Code, the terms hereof, and the Restructuring Support Agreement.

"Plan Supplement" means a supplement or supplements to this Plan containing the forms of certain documents, schedules, and exhibits relevant to the implementation of this Plan, which shall include (i) the New Corporate Governance Documents, (ii) the slate of directors to be appointed to the New Board (to the extent known and determined), (iii) with respect to the members of the New Board disclosed pursuant to clause (ii), information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code, (iv) the Exit Credit Agreement, (v) the Warrant Agreement, (vi) Rejected Executory Contract and Unexpired Lease List; (vii) a schedule of retained Causes of Action; (viii) the A/R Exit Facility Agreement; (ix) the Restructuring Transaction Steps; and (x) such other documents as are necessary or advisable to implement the Restructuring contemplated by the Restructuring Support Agreement and the Plan, each of which shall be consistent with the Restructuring Support Agreement and subject to the Definitive Document Requirements *provided*, *however*, that, through the Effective Date, the Debtors shall have the right to amend the documents and schedules contained in, and exhibits to, the Plan Supplement in accordance with the terms of this Plan and the Restructuring Support Agreement.

"Pointwell Intercompany Debt" means certain intercompany obligations owed to the Lux Borrower by the Parent which have been pledged to the First Lien Lenders pursuant to (x) that certain First Lien Share Charge and Security Assignment, dated as of April 28, 2014, between the Lux Borrower and the First Lien Agent and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) that certain Second Lien Share Charge and Security Assignment, dated as of April 28, 2014, between the Lux Borrower and the Second Lien Agent and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.

"Pointwell Intercompany Debt Claim" means any Claim on account of the Pointwell Intercompany Debt.

"Priority Tax Claim" means any Claim of a Governmental Unit of the kind entitled to priority of payment as specified in section 507(a)(8) of the Bankruptcy Code.

"Pro Rata" means the proportion that an Allowed Claim or Interest in a particular Class bears to the aggregate amount of Allowed Claims or Interests in that Class.

"Professional Fee Escrow" means an interest-bearing account in an amount equal to Professional Fee Reserve Amount and funded by the Debtors on the Effective Date.

"Professional Fee Reserve Amount" shall consist of the total amount of (i) any unpaid invoices for fees and expenses incurred by Professional Persons retained by the Company or any official committee through and including the Effective Date; (ii) estimated fees and expenses of the Professional Persons retained by the Company or any Committee, as estimated by such Professional Persons in good faith, for (a) accrued but uninvoiced fees and expenses and (b) post-Effective Date activities; and (iii) the estimated reasonable and documented fees and expenses of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group, in each case, in accordance with the terms of their applicable engagement or reimbursement letters and as estimated in good faith for (a) accrued and uninvoiced fees and expenses through and including the Effective Date and (b) necessary post-Effective Date activities.

"Professional Person" means any Person retained by order of the Bankruptcy Court in connection with these Chapter 11 Cases pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code, excluding any ordinary course professional retained pursuant to an order of the Bankruptcy Court.

"Rejected Executory Contract and Unexpired Lease List" means the schedule of executory contracts and unexpired leases to be rejected by the Debtors pursuant to this Plan, if any, as the same may be amended, modified, or supplemented from time to time.

"Released Parties" means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

"Releasing Parties" means, collectively, (i) the holders of all Claims or Interests who vote to accept this Plan, (ii) holders of Claims or Interests that are Unimpaired under this Plan, where the applicable Claims or Interests have been fully paid or otherwise satisfied in accordance with this Plan, (iii) holders of Claims or Interests whose vote to accept or reject this Plan was solicited but who did not vote either to accept or to reject this Plan, (iv) holders of Claims or Interests who voted to reject this Plan but did not opt out of granting the releases set forth herein, and (vi) the Released Parties; *provided*, *however*, that if the Sponsor and Evergreen Skills Entities are not Released Parties, the Sponsor and the Evergreen Skills Entities and each of their respective current and former affiliates (other than the Company), subsidiaries (other than

the Company), members, managers, equity, owners, managed entities, investment managers, employees, professionals, consultants, directors, and officers (in each case solely in their respective capacities as such) shall not be Releasing Parties.

"Reorganization Term Sheet" means that certain term sheet attached as Exhibit D to the Restructuring Support Agreement.

"Reorganized Debtor(s)" means, with respect to each Debtor, such Debtor as reorganized as of the Effective Date in accordance with this Plan.

"Reorganized Parent" means Parent as reorganized on the Effective Date in accordance with this Plan.

"Requisite Creditors" has the meaning set forth in the Restructuring Support Agreement.

"Restructuring Fees and Expenses" means all reasonable and documented fees and expenses incurred or estimated to be incurred by the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group, including without limitation the fees and expenses of the Consenting Creditor Advisors.

"Restructuring Support Agreement" means that certain Restructuring Support Agreement, including all exhibits thereto, dated as of June 12, 2020, by and among the Debtors and the Consenting Creditors, attached hereto as Exhibit A, as the same may be amended, restated, or otherwise modified in accordance with its terms.

"**Restructuring Term Sheets**" means, collectively, the Reorganization Term Sheet, the DIP and Exit Facility Term Sheet, the Governance Term Sheet, and the Warrant Term Sheet, as applicable.

"Restructuring Transaction Steps" means the memorandum setting out the steps of the Restructuring Transactions (including any schedules and exhibits thereto), which shall be subject to the Definitive Document Requirements.

"Restructuring Transactions" means one or more transactions pursuant to section 1123(a)(5)(D) of the Bankruptcy Code to occur on the Effective Date or as soon as reasonably practicable thereafter, that may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate this Plan, including (i) the consummation of the transactions provided for under or contemplated by the Restructuring Support Agreements and the Restructuring Term Sheets (including if a Sponsor Material Breach has occurred or the Sponsor Side Agreement has terminated for any reason other than the occurrence of the Effective Date), (ii) the execution and delivery of appropriate agreements or other documents containing terms that are consistent with or reasonably necessary to implement the terms of this Plan, the Restructuring Support Agreement, and the Restructuring Term Sheets, and that satisfy the requirements of applicable law, (iii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of this Plan, the Restructuring Support Agreement, and the Restructuring Term Sheets, and (iv) all other actions that the Debtors or

Reorganized Debtors, as applicable, determine, subject to the Definitive Document Requirements and the terms of the Restructuring Support Agreement and the Restructuring Term Sheets, are necessary or appropriate and consistent with the Restructuring Support Agreement and the Restructuring Term Sheets.

"Restructuring" has the meaning set forth in the Restructuring Support Agreement.

"Schedules" means, the schedules of Assets and liabilities, statements of financial affairs, lists of holders of Claims and Interests and all amendments or supplements thereto filed by the Debtors with the Bankruptcy Court to the extent such filing is not waived pursuant to an order of the Bankruptcy Court.

"Second Lien Agent" means Wilmington Savings Fund Society, FSB, solely in its capacity as administrative agent and collateral agent under the Second Lien Credit Agreement, or its successors, assigns, or any replacement agent appointed pursuant to the terms of the Second Lien Credit Agreement.

"Second Lien Credit Agreement" means that certain Second Lien Credit Agreement, dated as of April 28, 2014, (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among Holdings, as holdings; Lux Borrower and Skillsoft Corporation, as borrowers; the Second Lien Agent; the Second Lien Lenders; and the other parties thereto from time to time.

"Second Lien Debt Claim" means all Secured and deficiency Claims on account of, arising under, or relating to the Second Lien Credit Agreement, including without limitation any accrued and unpaid principal, interest and fees as of the Petition Date.

"Second Lien Lenders" means the lenders party to the Second Lien Credit Agreement from time to time.

"Secured Claim" means a Claim to the extent (i) secured by a Lien on property of a Debtor's Estate, the amount of which is equal to or less than the value of such property (a) as set forth in this Plan, (b) as agreed to by the holder of such Claim and the Debtors, or (c) as determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code or (ii) subject to any setoff right of the holder of such Claim under section 553 of the Bankruptcy Code.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Security" means any "security" as such term is defined in section 101(49) of the Bankruptcy Code.

"Sponsor" means Charterhouse General Partners (IX) Limited, acting in its capacity as general partner of Charterhouse Evergreen LP.

"**Sponsor Affiliates"** means (i) with respect a person any other person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such person; and (ii) each of their respective current and former employees, professionals, consultants, directors and officers (in each case in their respective capacities as such), but excluding any portfolio company of any fund or account managed or advised by the Sponsor (other than the Debtors or any of their direct or indirect subsidiaries), provided that: (A) for the purposes of this definition of Sponsor Affiliate the term "control", "controlled by" and "under common control with" means the possession, directly or indirectly, through one or more intermediaries, of: (1) the power to direct or cause the direction of the management and policies of a person; (2) the right to more than 50 percent of the profits of a person, in each case whether through the ownership of shares, interests and/or other securities of any kind, by contract or otherwise; or (3) vote on more than 50 percent, of the securities having ordinary voting power for the election of directors of such person; (B) in respect of a limited partnership or a fund, any general partner, investment manager, investment adviser, nominee or trustee of such limited partnership or fund, shall be deemed to be a Sponsor Affiliate of any member of the Sponsor; (C) a portfolio company of any fund or account managed or advised by the Sponsor other than the Debtors or any of their direct or indirect subsidiaries, shall not be deemed to be a Sponsor Affiliate of any member of the Sponsor and (D) any person which is deemed to be a Sponsor Affiliate of the Sponsor principally as a result of being managed and/or advised by the Sponsor shall only be a "Sponsor Affiliate" for so long as it continues to be managed and/or advised in such manner.

"Sponsor Material Breach" has the meaning set forth in the Sponsor Side Agreement.

"Sponsor Side Agreement" means the agreement, dated as of June 12, 2020, evidencing the Sponsor's and the Evergreen Skills Entities' consent to the Restructuring by and among the Parent, the Sponsor, the Evergreen Skills Entities, and the Consenting Creditors party thereto annexed hereto as Exhibit B.

"Statutory Fees" means all fees and charges assessed against the Estates pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code.

"Steering Committee" has the meaning set forth in the Governance Term Sheet.

"Subordinated Claims" means any claim subject to subordination under section 510(b) of the Bankruptcy Code, including without limitation all accrued and unpaid management fees and other amounts owed to the Sponsor.

"Tax Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Tranche A Warrants" means warrants issued pursuant to the Warrant Agreement representing the right to acquire 5.0% of the Newco Equity issued and outstanding immediately after the Effective Date, subject to dilution by the Incentive Plans.

"Tranche B Warrants" means warrants issued pursuant to the Warrant Agreement representing the right to acquire 10.0% of the Newco Equity issued and outstanding immediately after the Effective Date, subject to dilution by the Incentive Plans.

"U.S. Trustee" means the United States Trustee for Region 3.

"Unimpaired" means, with respect to a Claim, Interest, or Class of Claims or Interests, not "impaired" within the meaning of such term in section 1124 of the Bankruptcy Code.

"Voting Deadline" means June 26, 2020 at 5:00 p.m. prevailing Eastern Time, or such other date and time as may set by the Bankruptcy Court.

"Warrant Agreement" means the warrant agreement to be entered into by and among Newco Parent and the warrant agent named therein that will govern the terms of the Warrants and be in form and substance consistent with the Warrant Term Sheet and subject to the Definitive Document Requirements.

"Warrant Equity" means the Newco Equity to be issued upon the exercise of the Warrants.

"Warrant Term Sheet" means that certain term sheet (including any schedules and exhibits thereto) annexed to the Restructuring Support Agreement as Exhibit F.

"**Warrants**" means, collectively, the Tranche A Warrants and the Tranche B Warrants.

1.2 Interpretation; Application of Definitions; Rules of Construction.

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in or exhibit to this Plan, as the same may be amended, waived, or modified from time to time in accordance with the terms hereof and the Restructuring Support Agreement. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein and have the same meaning as "in this Plan," "of this Plan," "to this Plan," and "under this Plan," respectively. The words "includes" and "including" are not limiting. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (i) in the appropriate context, each term, whether stated in the singular or plural, shall include both the singular and plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (ii) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (iii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (iv) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

1.3 Reference to Monetary Figures.

All references in this Plan to monetary figures shall refer to the legal tender of the United States of America unless otherwise expressly provided.

1.4 Consent and Termination Rights of Consenting Creditors.

Notwithstanding anything herein to the contrary, any and all consent and/or termination rights of the Requisite Creditors and/or Consenting Creditors, as applicable, as set forth in the Restructuring Support Agreement with respect to the form and substance of this Plan, and any other Definitive Documents, including any amendments, restatements, supplements, or other modifications to such documents, and any consents, waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference and fully enforceable as if stated in full herein.

1.5 Controlling Document.

In the event of an inconsistency between this Plan and any document in the Plan Supplement, the terms of the relevant document in the Plan Supplement shall control unless otherwise specified in such Plan Supplement document. In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan and of the Confirmation Order shall be construed in a manner consistent with each other so as to effectuate the purposes of each; *provided*, *however*, that if there is determined to be any inconsistency between any provision of this Plan and any provision of the Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan.

ARTICLE II. ADMINISTRATIVE EXPENSE CLAIMS, FEE CLAIMS, PRIORITY TAX CLAIMS, AND DIP CLAIMS.

2.1 Treatment of Administrative Expense Claims.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, each holder of an Allowed Administrative Expense Claim (other than Restructuring Fees and Expenses or a Fee Claim) shall receive, in full and final satisfaction of such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (i) the Effective Date and (ii) the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; *provided*, *however*, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents establishing, such liabilities.

2.2 Treatment of Fee Claims.

(a) All Professional Persons seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 1103 of the Bankruptcy Code shall (i) file, on or before the date that is

forty five (45) days after the Confirmation Date, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (ii) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court or authorized to be paid in accordance with the order(s) relating to or allowing any such Fee Claim. The Debtors are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Confirmation Date in the ordinary course and without the need for Bankruptcy Court approval.

(b) On the Effective Date, the Debtors shall establish and fund the Professional Fee Escrow. The Debtors shall fund the Professional Fee Escrow with Cash equal to the Professional Fee Reserve Amount. Funds held in the Professional Fee Escrow shall not be considered property of the Debtors' Estates or property of the Reorganized Debtors, but shall revert to the Reorganized Debtors only after all Fee Claims allowed by the Bankruptcy Court and all Restructuring Fees and Expenses have been irrevocably paid in full. The Professional Fee Escrow shall be held in trust for Professional Persons retained by the Debtors and any official committee, as well as for the Consenting Creditor Advisors, but for no other parties until all Restructuring Fees and Expenses and Allowed Fee Claims have been paid in full. Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) on the date upon which a Final Order relating to any such Allowed Fee Claim is entered or (ii) on such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim and the Debtors or the Reorganized Debtors, as applicable. The Reorganized Debtors' obligations with respect to Fee Claims shall not be limited by nor deemed limited to the balance of funds held in the Professional Fee Escrow. To the extent that funds held in the Professional Fee Escrow are insufficient to satisfy the amount of accrued Fee Claims owing to the Professional Persons, such Professional Persons shall have an Allowed Administrative Expense Claim for any such deficiency, which shall be satisfied in accordance with section 2.1 of this Plan. No Liens, claims, or interests shall encumber the Professional Fee Escrow in any way, other than customary liens in favor of the depository bank at which the Professional Fee Escrow is maintained.

(c) Any objections to Fee Claims shall be served and filed (i) no later than twenty one (21) days after the filing of the final applications for compensation or reimbursement or (ii) such later date as ordered by the Bankruptcy Court upon a motion of the Reorganized Debtors.

2.3 Treatment of Priority Tax Claims.

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction of such Allowed Priority Tax Claim Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of (i) the Effective Date, to the extent such Claim is an Allowed Priority Tax Claim on the Effective Date; (ii) the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim; and (iii) the date such Allowed Priority Tax Claim is due and payable in the ordinary course as such obligation becomes due; provided, that the Debtors reserve the right to prepay all or a portion of any such amounts at any time under this option without penalty or premium.

2.4 Treatment of DIP Facility Claims.

Subject to the DIP Orders, on the Effective Date, the amount outstanding under the DIP Claims shall be deemed to be Allowed in the full amount due and owing under the DIP Credit Agreement, including, for the avoidance of doubt, (i) the principal amount outstanding under the DIP Facility on such date; (ii) all interest accrued and unpaid thereon through and including the date of payment; and (iii) all accrued fees, expenses, and indemnification obligations payable under the DIP Financing Documents. For the avoidance of doubt, the DIP Claims shall not be subject to any avoidance, reduction, setoff, recoupment, recharacterization, subordination (equitable or contractual or otherwise), counter-claim, defense, disallowance, impairment, objection or any challenges under applicable law or regulation.

On the Effective Date, each holder of any Allowed DIP Claim shall receive, in full and final satisfaction of such Claim: (i) in exchange for the principal amounts of such Allowed DIP Claim, on a dollar-for-dollar basis, (A) New First Out Term Loans or (B) Cash (provided the New First Out Term Loan Commitment is met in full) and (ii) in exchange for all amounts of such Allowed DIP Claim not attributable to principal (including, for the avoidance of doubt, accrued interest and other obligations under the DIP Facility) payment in full in Cash on the Effective Date.

2.5 Payment of Fees and Expenses under DIP Orders.

On the earlier of (i) the Effective Date and (ii) the date on which any accrued and unpaid fees, expenses or disbursements in respect of the DIP Facility would be required to be paid under the terms of the applicable DIP Order, the Restructuring Support Agreement or any other order of the Bankruptcy Court, the Debtors or Reorganized Debtors (as applicable) shall pay in Cash all fees, expenses and disbursements of the DIP Agent, DIP Escrow Agent, and the DIP Lenders, in each case, that have accrued and are unpaid as of the Effective Date and are required to be paid under or pursuant to the DIP Orders, the Restructuring Support Agreement, or any other order of the Bankruptcy Court, including, for the avoidance of doubt, the Adequate Protection Payments.

2.6 Restructuring Fees and Expenses.

The Restructuring Fees and Expenses incurred, or estimated to be incurred, up to and including the Effective Date (or, with respect to necessary post-Effective Date activities, after the Effective Date), shall be paid in full in Cash on the Effective Date or as soon as reasonably practicable thereafter (to the extent not previously paid during the course of the Chapter 11 Cases) in accordance with, and subject to, the terms of the Restructuring Support Agreement, without any requirement to file a fee application with the Bankruptcy Court or without any requirement for Bankruptcy Court review or approval. All Restructuring Fees and Expenses to be paid on the Effective Date shall be estimated prior to and as of the Effective Date and such estimates shall be delivered to the Debtors at least two (2) Business Days before the anticipated Effective Date; *provided*, *however*, that such estimates shall not be considered an admission or limitation with respect to such Restructuring Fees and Expenses. On the Effective Date, or as soon as practicable thereafter, final invoices for all Restructuring Fees and Expenses incurred prior to and as of the Effective Date shall be submitted to the Debtors.

2.7 Statutory Fees.

All Statutory Fees due and payable prior to the Effective Date shall be paid by the Debtors or the Reorganized Debtors. On and after the Effective Date, the Reorganized Debtors shall pay any and all Statutory Fees when due and payable, and shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. Each Debtor or Reorganized Debtor, as applicable, shall remain obligated to pay quarterly fees to the U.S. Trustee until the earliest of that particular Debtor's, or Reorganized Debtor's, as applicable, case being closed, dismissed, or converted to a case under Chapter 7 of the Bankruptcy Code.

ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS.

3.1 Classification in General.

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under this Plan and in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided*, *however*, that a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

3.2 Formation of Debtor Groups for Convenience Only.

This Plan groups the Debtors together solely for the purpose of describing the treatment of Claims and Interests under this Plan, the confirmation requirements of this Plan, and the making of Plan Distributions in respect of Claims against and Interests in the Debtors under this Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, or cause the transfer of any Assets; and, except as otherwise provided by or permitted under this Plan, all Debtors shall continue to exist as separate legal entities.

3.3 Summary of Classification of Claims and Interests.

The following table designates the Classes of Claims and Interests and specifies which Classes are (i) Impaired and Unimpaired under this Plan, (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code, and (iii) deemed to accept or reject this Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified. The classification of Claims and Interests set forth herein shall apply separately to each Debtor.

Class	Type of Claim or Interest	Impairment	Entitled to Vote
Class 1	Other Priority Claims	Unimpaired	No (Deemed to accept)
Class 2	Other Secured Claims	Unimpaired	No (Deemed to accept)
Class 3	First Lien Debt Claims	Impaired	Yes
Class 4	Second Lien Debt Claims	Impaired	Yes
Class 5	General Unsecured Claims	Unimpaired	No (Deemed to accept)
Class 6	Subordinated Claims	Impaired	No (Deemed to reject)
Class 7	Intercompany Claims	Impaired / Unimpaired	No (Deemed to accept or reject)
Class 8	Existing Parent Equity Interests	Impaired	No (Deemed to reject)
Class 9	Other Equity Interests	Impaired	No (Deemed to reject)
Class 10	Intercompany Interests	Impaired / Unimpaired	No (Deemed to accept or reject)

3.4 Special Provision Governing Unimpaired Claims.

Except as otherwise provided in this Plan, nothing in this Plan shall affect the rights of the Debtors or the Reorganized Debtors, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

3.5 Elimination of Vacant Classes.

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from this Plan for purposes of voting to accept or reject this Plan, and disregarded for purposes of determining whether this Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

3.6 Voting Classes; Presumed Acceptance by Non-Voting Classes.

With respect to each Debtor, if a Class contained Claims eligible to vote and no holder of Claims eligible to vote in such Class votes to accept or reject this Plan, this Plan shall be presumed accepted by such Class.

3.7 Voting; Presumptions; Solicitation.

(a) **Acceptance by Certain Impaired Classes**. Only holders of Claims in Class 3 and Class 4 are entitled to vote to accept or reject this Plan. An Impaired Class of Claims shall have accepted this Plan if (i) the holders of at least two-thirds (2/3) in amount of the Allowed Claims actually voting in such Class have voted to accept this Plan and (ii) the holders of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have

voted to accept this Plan. Holders of Claims in Class 3 and Class 4 shall receive ballots containing detailed voting instructions.

(b) **Deemed Acceptance by Unimpaired Classes**. Holders of Claims in Classes 1, 2, and 5 are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Accordingly, such holders are not entitled to vote to accept or reject this Plan.

(c) **Deemed Rejection by Impaired Class**. Holders of Claims and Interests in Classes 6, 8, and 9 are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, such holders are not entitled to vote to accept or reject this Plan.

(d) **Deemed Acceptance or Rejection by Unimpaired / Impaired Classes**. Holders of Claims or Interests in Classes 7 and 10 are conclusively deemed to have either accepted or rejected this Plan pursuant to section 1126 (f) or (g) of the Bankruptcy Code. Accordingly, such holders are not entitled to vote to accept or reject this Plan.

3.8 Cramdown.

If any Class (other than Class 3 or 4) is deemed to reject this Plan or is entitled to vote on this Plan and does not vote to accept this Plan, the Debtors may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code, including by (A) modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules or (B) withdrawing the Plan as to an individual Debtor at any time before the Confirmation Date. If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

3.9 No Waiver.

Nothing contained in this Plan shall be construed to waive a Debtor's or other Person's right to object on any basis to any Claim.

ARTICLE IV. TREATMENT OF CLAIMS AND INTERESTS.

4.1 Class 1: Other Priority Claims.

(a) **Treatment**: The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) such other treatment sufficient to render such holder's Allowed Other Priority Claim Unimpaired pursuant

to section 1124 of the Bankruptcy Code, or (iii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.

(b) **Impairment and Voting**: Allowed Other Priority Claims are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Other Priority Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Priority Claims.

4.2 Class 2: Other Secured Claims.

(a) **Treatment**: The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) reinstatement or such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.

(b) **Impairment and Voting**: Allowed Other Secured Claims are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Other Secured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Secured Claims.

4.3 Class 3: First Lien Debt Claims.

(a) **Treatment**: On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed First Lien Debt Claims, the holders of Allowed First Lien Debt Claims (or the permitted assigns or designees of such holders) shall receive their Pro Rata share of:

(i) New Second Out Term Loans; and

(ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans).

(b) **Impairment and Voting**: First Lien Debt Claims are Impaired. Holders of First Lien Debt Claims are entitled to vote on this Plan.

(c) **Allowance**: The First Lien Debt Claims shall be deemed Allowed on the Effective Date in the aggregate principal amount of $1,404,396,384.46, *plus* (i) accrued but unpaid interest owed as of the Petition Date and any fees, charges, and other amounts due but unpaid under the First Lien Credit Agreement or any related documents as of the Petition Date, and (ii) any other First Lien Debt Claims accrued under any order of the Bankruptcy Court but

unpaid as of the Effective Date. Neither the holders of First Lien Debt Claims nor the First Lien Agent shall be required to file proofs of Claim on account of any First Lien Debt Claim.

4.4 Class 4: Second Lien Debt Claims.

(a) **Treatment**: On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed Second Lien Debt Claims, the holders of Allowed Second Lien Debt Claims shall receive their Pro Rata share of:

(i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans);

(ii) the Tranche A Warrants; and

(iii) the Tranche B Warrants.

(b) **Impairment and Voting**: Second Lien Debt Claims are Impaired. Holders of Second Lien Debt Claims are entitled to vote on this Plan.

(c) **Allowance**: The Second Lien Debt Claims shall be deemed Allowed on the Effective Date in the aggregate principal amount of $696,604,104.28, *plus* (i) accrued but unpaid interest owed as of the Petition Date and any fees, charges, and other amounts due but unpaid under the Second Lien Credit Agreement or any related documents as of the Petition Date, and (ii) any other Second Lien Debt Claims accrued under any order of the Bankruptcy Court but unpaid as of the Effective Date. Neither the holders of Second Lien Debt Claims nor the Second Lien Agent shall be required to file proofs of Claim on account of any Second Lien Debt Claim.

4.5 Class 5: General Unsecured Claims.

(a) **Treatment**: The legal, equitable, and contractual rights of the holders of Allowed General Unsecured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on and after the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall continue to pay or dispute each General Unsecured Claim in the ordinary course of business as if the Chapter 11 Cases had never been commenced.

(b) **Impairment and Voting**: Allowed General Unsecured Claims are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed General Unsecured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to such Allowed General Unsecured Claims.

4.6 Class 6: Subordinated Claims

(a) **Treatment**: On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the

Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.

(b) **Impairment and Voting**: All Subordinated Claims are Impaired. In accordance with section 1126(g) of the Bankruptcy Code, holders of Subordinated Claims are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to Subordinated Claims.

4.7 Class 7: Intercompany Claims.

(a) **Treatment**: On the Effective Date, all Intercompany Claims shall be reinstated, cancelled, reduced, transferred, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.

(b) **Impairment and Voting**: Holders of Allowed Intercompany Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) or deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Holders of Allowed Intercompany Claims are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to Intercompany Claims.

4.8 Class 8: Existing Parent Equity Interests

(a) **Treatment**: On the Effective Date, the entire share capital of Parent shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps. Holders of Existing Parent Equity Interests shall receive no distribution under this Plan.

(b) **Impairment and Voting**: Existing Equity Parent Interests are Impaired. In accordance with section 1126(g) of the Bankruptcy Code, holders of Existing Equity Interests are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to Existing Equity Interests.

4.9 Class 9: Other Equity Interests.

(a) **Treatment**: On the Effective Date, Other Equity Interests shall be cancelled, released, and extinguished and shall be of no further force and effect.

(b) **Impairment and Voting**: Other Equity Interests are Impaired. In accordance with section 1126(g) of the Bankruptcy Code, holders of Other Equity Interests are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders will not be solicited with respect to Other Equity Interests.

4.10 Class 10: Intercompany Interests.

(a) **Treatment**: On the Effective Date, all Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.

(b) **Impairment and Voting**: Holders of Intercompany Interests are conclusively presumed to have accepted the Plan pursuant to section 1126(f) or deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Holders of Intercompany Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Intercompany Interests.

ARTICLE V. MEANS FOR IMPLEMENTATION.

5.1 Plan Funding.

Plan Distributions of Cash shall be funded from the Debtors' Cash on hand as of the applicable date of such Plan Distribution and from proceeds of the New First Out Term Loan Facility.

5.2 Compromise and Settlement of Claims, Interests, and Controversies.

Pursuant to section 363 and 1123(b)(2) of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a creditor or an Interest holder may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and holders of such Claims and Interests, and is fair, equitable, and reasonable.

5.3 Continued Corporate Existence; Effectuating Documents; Further Transactions.

(a) Except as otherwise provided in this Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and their Organizational Documents.

(b) On and after the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved by the Bankruptcy Court in all respects without any further corporate or equity holder action. On or after the Effective Date, each Reorganized Debtor may, in its sole discretion, take such action as permitted by applicable law and its Organizational Documents., as such Reorganized Debtor may determine is reasonable and appropriate, including without limitation causing (i) a Reorganized Debtor to be merged into another Reorganized Debtor or an affiliate of a Reorganized Debtor, (ii) a Reorganized Debtor to be dissolved, (iii) the legal name of a Reorganized Debtor to be changed, or (iv) the closure of a Reorganized Debtor's Chapter 11 Case on the Effective Date or any time thereafter, and such action and documents are deemed to require no further action or approval (other than any requisite filings required under applicable state, federal, or foreign law).

(c) On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any

transaction described in, approved by, or necessary or appropriate to effectuate this Plan, including without limitation (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any Asset, property, right, liability, debt, or obligation, (iii) the filing of appropriate certificates or articles of incorporation or formation and amendments thereto, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable law, (iv) the Restructuring Transactions, and (v) all other actions that the applicable entities determine to be necessary or appropriate, including, without limitation, making filings or recordings that may be required by applicable law.

5.4 Cancellation of Existing Securities and Agreements.

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, or in any Plan Document, on the Effective Date, all agreements, instruments, notes, certificates, indentures, mortgages, Securities and other documents evidencing any Claim or Interest (other than Claims or Interests that are not modified by this Plan, including the Allowed General Unsecured Claims, Existing Parent Equity Interests, and Intercompany Interests) and any rights of any holder in respect thereof shall be deemed cancelled and of no force or effect and the obligations of the Debtors thereunder shall be deemed fully satisfied, released, and discharged and, as applicable, shall be deemed to have been surrendered to the Disbursing Agent; provided, that notwithstanding Confirmation or the occurrence of the Effective Date, any such instrument or document that governs the rights of a Holder of a DIP Claim, First Lien Debt Claim or Second Lien Debt Claim shall continue in effect solely for purposes of: (i) allowing such Holders to receive distributions under the Plan, including taking action in accordance with the Restructuring Transaction Steps; (ii) allowing each of the First Lien Agent, the Second Lien Agent, and the DIP Agent to enforce its rights, claims, and interests vis-à-vis any parties other than the Debtors; (iii) allowing each of the DIP Agent, First Lien Agent and the Second Lien Agent to make the distributions in accordance with the Plan; (iv) preserving any rights of each of the First Lien Agent, the Second Lien Agent, and the DIP Agent to payment of fees, expenses, and indemnification obligations as against any money or property distributable to the Holders of First Lien Debt Claims, Second Lien Debt Claims or DIP Claims, as applicable, under the Credit Agreements or the DIP Credit Agreement, as applicable, including any rights to priority of payment and/or to exercise charging liens; (v) preserving the rights of each of the First Lien Agent, the Second Lien Agent, and the DIP Agent to enforce any obligations owed to the DIP Secured Parties, the First Lien Lenders, and the Second Lien Lenders, respectively, under the Plan; (vi) allowing each of the First Lien Agent, the Second Lien Agent, and the DIP Agent to appear in the Chapter 11 Cases or in any proceeding in the Bankruptcy Court or any other court, including, but not limited, to enforce the respective obligations owed to the DIP Secured Parties, the First Lien Lenders, and the Second Lien Lenders, respectively, under the Plan; and (vii) permitting each of the First Lien Agent, the Second Lien Agent, and the DIP Agent to perform any functions that are necessary to effectuate the foregoing.. The holders of or parties to such cancelled instruments, Securities, and other documentation shall have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan.

Each of the First Lien Agent and the Second Lien Agent shall be released and shall have no further obligation or liability except as provided in or contemplated by the Plan, Restructuring Transaction Steps, and Confirmation Order, and after the performance by the First Lien Agent and the Second Lien Agent and their respective representatives and professionals of any obligations and duties required under or related to the Plan, Restructuring Transaction Steps, or Confirmation Order, including effectuating Distributions to the applicable Prepetition Secured Parties, each of the First Lien Agent and the Second Lien Agent shall be relieved of and released from any obligations and duties arising thereunder. Any fees, expenses and other amounts payable to each of the First Lien Agent and the Second Lien Agent under the applicable Credit Agreement as of the Effective Date shall be paid by the Debtors to the First Lien Agent and the Second Lien Agent on the Effective Date in full, in Cash.

Except as provided in this Plan, upon satisfaction of the DIP Claims on the Effective Date, the DIP Agent and its agents, successors, and assigns shall be automatically and fully discharged of all of their duties and obligations associated with the DIP Credit Agreement. The commitments and obligations, if any, of the DIP Lenders to extend any further or future credit or financial accommodations to any of the Debtors, any of their respective subsidiaries, or any of their respective successors or assigns under the DIP Credit Agreement, as applicable, shall fully terminate and be of no further force or effect on the Effective Date. To the extent that any provision of the DIP Credit Agreement or DIP Orders are of a type that survives repayment of the subject indebtedness or the termination thereof (including, without limitation, any indemnification obligations of the DIP Lenders to the DIP Agent), such provisions shall remain in effect notwithstanding satisfaction of the DIP Claims. Any fees, expenses and other amounts payable to the DIP Agent under the DIP Credit Agreement as of the Effective Date shall be paid by the Debtors to the DIP Agent on the Effective Date in full, in Cash.

5.5 Cancellation of Certain Existing Security Interests.

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors or Reorganized Debtors, as applicable, any Collateral or other property of a Debtor held by such holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or lis pendens, or similar interests or documents.

5.6 Officers and Boards of Directors.

(a) On the Effective Date and subject to the terms of the New Corporate Governance Documents, the New Board shall consist of (i) Newco Parent's chief executive officer; (ii) three directors appointed by the Steering Committee; (iii) two directors appointed by the Ad Hoc Crossholder Group; and (iv) one independent director nominated by mutual agreement of the Steering Commitee and Ad Hoc Crossholder Group, to be disclosed in the Plan Supplement to the extent known and determined. The identity and affiliations of any Person proposed to serve on the New Board shall be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Except as otherwise provided in the Plan Supplement, the officers of the respective Reorganized Debtors immediately before the Effective Date, as applicable, shall serve as the officers of each of the respective Reorganized Debtors on and after the Effective Date.

(c) Except to the extent that a member of the board of directors, as applicable, of a Debtor continues to serve as a director or manager of such Debtor on and after the Effective Date, the members of the board of directors or managers of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations or duties to the Reorganized Debtors on or after the Effective Date and each such director or manager shall be deemed to have resigned or shall otherwise cease to be a director or manager of the applicable Debtor on the Effective Date. Commencing on the Effective Date, each of the directors and managers of each of the Reorganized Debtors shall be elected and serve pursuant to the terms of the applicable Organizational Documents of such Reorganized Debtor and may be replaced or removed in accordance with such Organizational Documents.

5.7 Incentive Plans.

After the Effective Date, the New Board shall adopt the Incentive Plans. The participants and amounts allocated under the Incentive Plans and other terms and conditions thereof shall be determined in the sole discretion of the New Board; *provided*, *however*, that the Incentive Plans shall be in form and substance consistent with the Reorganization Term Sheet.

5.8 Authorization and Issuance of Newco Equity and Warrants.

On and after the Effective Date, Newco Parent is authorized to issue or cause to be issued and shall issue (a) the Newco Equity and (b) the Warrants, each in accordance with the terms of this Plan without the need for any further act or actions by any Person. All of the Newco Equity and the Warrants issuable under this Plan, when so issued, shall be duly authorized, validly issued, and, in the case of the Newco Equity, fully paid, and non-assessable. The Warrant Equity (upon payment or satisfaction of the exercise price in accordance with the terms of the applicable Warrants) issued pursuant to this Plan shall be duly authorized, validly issued, fully paid, and non-assessable.

5.9 Securities Exemptions.

The issuance of and the distribution under this Plan of the Newco Equity and the Warrants (and the Warrant Equity issuable upon exercise thereof) shall be exempt, without further act or actions by any Person, from registration under the Securities Act, and all rules and regulations promulgated thereunder, and any other applicable securities laws to the fullest extent permitted by section 1145 of the Bankruptcy Code. The Newco Equity and the Warrants (and the Warrant Equity issuable upon exercise thereof) shall be freely tradable by the recipients thereof, (a) unless the holder is an "underwriter" with respect to such securities, as that term is defined in section 1145(b) of the Bankruptcy Code and (b) subject to (i) compliance with, or the limitations of, any rules and regulations of the SEC, if any, applicable at the time of any future transfer of such securities (including, but not limited to, Rule 144 under the Securities Act (or any successor provision) and its limitation on transfers by persons who are "affiliates" (as defined in Rule 405 of the Securities Act) of the issuer), (ii) the restrictions, if any, on the

transferability of such securities under the terms of the New Corporate Governance Documents or the Warrant Agreements, as applicable, and (iii) applicable regulatory approval. Should the Newco Parent elect on or after the Effective Date to reflect any ownership of the Newco Equity or the Warrants (including the Warrant Equity issuable upon exercise thereof) through the facilities of DTC or any Alternative Service (as defined below), Newco Parent need not provide any further evidence, other than the Plan or the Confirmation Order, with respect to the treatment of such securities under applicable securities laws. Notwithstanding anything to the contrary in the Plan, no entity (including, for the avoidance of doubt, DTC, or any Alternative Service) shall be entitled to require a legal opinion regarding the validity of any transaction contemplated by the Plan, including, for the avoidance of doubt, whether the initial sale and delivery by the issuer to the holders of Newco Equity or the Warrants (including the Warrant Equity issuable upon exercise thereof) is exempt from registration and/or eligible for DTC (or any Alternative Service) book-entry delivery, settlement, and depository services. The Confirmation Order shall provide that DTC (or any Alternative Service) shall be required to accept and conclusively rely upon the Plan or Confirmation Order in lieu of a legal opinion regarding whether the Newco Equity or the Warrants (including the Warrant Equity issuable upon exercise thereof) is exempt from registration and/or eligible for DTC (or any Alternative Service) book-entry delivery, settlement, and depository services. Notwithstanding the preceding, the Company may elect to use any other book entry delivery, settlement and depositary service in lieu of DTC as it deems efficient and appropriate (an "**Alternative Service**").

5.10 Exit Credit Agreement.

(a) On the Effective Date, the Reorganized Debtors are authorized to and shall enter into the Exit Credit Agreement and all other documents, notes, agreements, guaranties, and other collateral documents contemplated thereby. The Exit Credit Agreement shall constitute legal, valid, binding, and authorized joint and several obligations of the Reorganized Debtors enforceable in accordance with its terms and such obligations shall not be enjoined or subject to discharge, impairment, release, avoidance, recharacterization, or subordination under applicable law, this Plan, or the Confirmation Order. On the Effective Date, all Liens and security interests granted pursuant to, or in connection with the Exit Credit Agreement (y) shall be valid, binding, perfected, enforceable first priority Liens and security interests in the property subject to a security interest granted by the applicable Reorganized Debtors pursuant to the Exit Credit Facility, with the priorities established in respect thereof under applicable non-bankruptcy law and (z) shall not be enjoined or subject to discharge, impairment, release, avoidance, recharacterization, or subordination under any applicable law, this Plan, or the Confirmation Order.

(b) The Exit Credit Agreement Agent is hereby authorized to file, with the appropriate authorities, financing statements, amendments thereto or assignments thereof and other documents, including mortgages or amendments or assignments thereof in order to evidence the first priority Liens, pledges, mortgages, and security interests granted in connection with the Exit Credit Agreement. The guaranties, mortgages, pledges, Liens, and other security interests granted in connection with the Exit Credit Agreement are granted in good faith as an inducement to the lenders under the Exit Credit Agreement to extend credit thereunder and shall be deemed not to constitute a fraudulent conveyance or fraudulent transfer, shall not otherwise be subject to avoidance and the priorities of such Liens, mortgages, pledges, and security

interests shall be as set forth in the Exit Credit Agreement and/or the collateral documents executed and delivered in connection therewith.

5.11 Intercompany Interests.

On the Effective Date and without the need for any further corporate action or approval of any board of directors, board of managers, managers, management, or shareholders of any Debtor or Reorganized Debtor, as applicable, the certificates and all other documents representing the Intercompany Interests shall be deemed to be in full force and effect. For the avoidance of doubt, to the extent reinstated pursuant to the Plan, on and after the Effective Date, all Intercompany Interests shall be owned by the same Reorganized Debtor that corresponds with the Debtor that owned such Intercompany Interests prior to the Effective Date.

5.12 Restructuring Transactions and Restructuring Transaction Steps.

On the Effective Date or as soon as reasonably practicable thereafter, the Debtors or Reorganized Debtors, as applicable, may take all actions consistent with this Plan as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Restructuring Transactions under and in connection with this Plan.

Notwithstanding anything to the contrary herein, (i) the Restructuring Transactions set forth in the Restructuring Transaction Steps shall occur on the Effective Date in the order set forth in the Restructuring Transaction Steps, including that no discharge or release of the First Lien Debt Claims or Second Lien Debt Claims shall occur until the previous Restructuring Transaction Steps have been completed and (ii) the Pointwell Intercompany Debt shall only be discharged, released, reduced, or waived, in whole or in part, to the extent and at the time set forth in the Restructuring Transaction Steps.

5.13 Separate Plans.

Notwithstanding the combination herein of separate plans of reorganization for each Debtor for purposes of economy and efficiency, this Plan constitutes a separate chapter 11 plan for each Debtor. Accordingly, if the Bankruptcy Court does not confirm this Plan with respect to one or more Debtors, it may still confirm this Plan with respect to any other Debtor that satisfies the confirmation requirements of section 1129 of the Bankruptcy Code.

5.14 Closing of Chapter 11 Cases.

Promptly after the full administration of the Chapter 11 Cases, the Reorganized Debtors shall file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases; *provided*, as of the Effective Date, the Reorganized Debtors may submit separate orders to the Bankruptcy Court under certification of counsel closing certain individual Chapter 11 Cases and changing the caption of the Chapter 11 Cases accordingly; *provided further* that matters concerning Claims may be heard and adjudicated in one of the Debtors' Chapter 11 Cases that remains open regardless of whether the applicable Claim is against a Debtor in a Chapter 11 Case that is closed. Nothing in this Plan shall authorize the closing of any case *nunc pro tunc* to a date that precedes the date any such order is entered. Any request for *nunc pro tunc* relief shall be made

on motion served on the United States Trustee, and the Bankruptcy Court shall rule on such request after notice and a hearing. Upon the filing of a motion to close the last Chapter 11 Case remaining open, the Reorganized Debtors shall file a final report with respect to all of the Chapter 11 Cases pursuant to Local Bankruptcy Rule 3022-1(c).

ARTICLE VI. DISTRIBUTIONS.

6.1 Distributions Generally.

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims and Allowed Interests in accordance with the terms of this Plan.

6.2 Postpetition Interest on Claims.

Except as otherwise provided in this Plan, the Plan Documents, or the Confirmation Order, postpetition interest shall accrue, and shall be paid, on any Claims (except for First Lien Debt Claims, Second Lien Debt Claims or any other prepetition funded indebtedness of a Debtor) in the ordinary course of business in accordance with any applicable law, agreement, document, or Final Order, as the case may be, as if the Chapter 11 Cases had never been commenced.

6.3 Date of Distributions.

Unless otherwise provided in this Plan, any distributions and deliveries to be made under this Plan shall be made on the Effective Date or as soon as practicable thereafter; *provided, however,* that the Reorganized Debtors may implement periodic distribution dates to the extent they determine them to be appropriate.

6.4 Distribution Record Date.

(a) As of the close of business on the Distribution Record Date, the various lists of holders of Claims in each Class, as maintained by the Debtors or their agents, shall be deemed closed, and there shall be no further changes in the record holders of any Claims after the Distribution Record Date. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of a Claim occurring after the close of business on the Distribution Record Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtors nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

(b) Notwithstanding anything in this Plan to the contrary, in connection with any Plan Distribution to be effected through the facilities of DTC or any Alternative Service (whether by means of book entry exchange, free delivery, or otherwise), the Debtors and the Reorganized Debtors, as applicable, shall be entitled to recognize and deal for all purposes under this Plan with holders of Newco Equity to the extent consistent with the customary practices of DTC (or any Alternative Service) used in connection with such distributions. All Newco Equity to be distributed under this Plan shall be issued in the names of such holders or their nominees in

accordance with DTC's (or, if applicable, the Alternative Service's) book entry exchange procedures to the extent that the holders of Newco Equity held their Existing Equity Interests through the facilities of DTC (or such Alternative Service); *provided, however*, that such share of Newco Equity are permitted to be held through DTC's (or the Alternative Service's) book entry system; *provided, further, however*, that to the extent the shares of Newco Equity are not eligible for distribution in accordance with DTC's (or Alternative Service's) customary practices, Newco Parent shall take all such reasonable actions as may be required to cause the distribution of the Newco Equity under this Plan. Notwithstanding anything in this Plan to the contrary, no Person (including, for the avoidance of doubt, DTC or any Alternative Service) may require a legal opinion regarding the validity of any transaction contemplated by this Plan, including, whether the initial sale and delivery Newco Equity is exempt from registration and/or eligible for DTC (or the Alternative Service) book-entry delivery, settlement, and depository services.

6.5 Distributions after Effective Date.

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

6.6 Disbursing Agent.

All distributions under this Plan shall be made by the Disbursing Agent on and after the Effective Date as provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties. The Reorganized Debtors shall use commercially reasonable efforts to provide the Disbursing Agent (if other than the Reorganized Debtors) with the amounts of Claims and the identities and addresses of holders of Claims, in each case, as set forth in the Debtors' or Reorganized Debtors' books and records. The Reorganized Debtors shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtors) to comply with the reporting and withholding requirements outlined in section 6.18 of this Plan.

6.7 Delivery of Distributions.

Subject to section 6.4(a) of this Plan, the Disbursing Agent will issue or cause to be issued, the applicable consideration under this Plan and, subject to Bankruptcy Rule 9010, will make all distributions to any holder of an Allowed Claim as and when required by this Plan at: (a) the address of such holder on the books and records of the Debtors or their agents; or (b) at the address in any written notice of address change delivered to the Debtors or the Disbursing Agent, including any addresses included on any transfers of Claim filed pursuant to Bankruptcy Rule 3001. In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the Disbursing Agent has been notified of the then-current address of such holder, at which time or as soon thereafter as reasonably practicable such distribution shall be made to such holder without interest..

All Distributions on account of Allowed DIP Claims, First Lien Debt Claims or Second Lien Debt Claims shall be made to or at the direction of the DIP Agent, First Lien Agent or the Second Lien Agent, as applicable, for further distribution to the DIP Lenders, First Lien

Lenders or the Second Lien Lenders, as applicable, in accordance with the DIP Credit Agreement, the Credit Agreements and the Plan, and shall be deemed completed when made to or at the direction of the DIP Agent, First Lien Agent or the Second Lien Agent, as applicable. As soon as practicable following any delivery of distributions to the DIP Agent, First Lien Agent or the Second Lien Agent, as applicable, on account of Allowed DIP Claims, First Lien Debt Claims or Second Lien Debt Claims, as applicable, the DIP Agent, First Lien Agent or the Second Lien Agent, as applicable, shall arrange to deliver any such distributions to the DIP Lenders, First Lien Lenders or the Second Lien Lenders, as applicable, in accordance with the DIP Credit Agreement, Credit Agreements and the Plan. For the avoidance of doubt, none of the DIP Agent, the First Lien Agent, or the Second Lien Agent shall have any liability to any party for actions taken in accordance with this Plan or in reliance upon information provided to it in accordance with this Plan, and the Reorganized Debtors shall reimburse the DIP Agent, First Lien Agent and the Second Lien Agent for any reasonable and documented fees and expenses (including reasonable and documented fees and expenses of its counsel and agents) incurred on or after the Effective Date in connection with the implementation of the Plan, including but not limited to, making distributions pursuant to and in accordance with the Plan.

6.8 Unclaimed Property.

One year from the later of: (i) the Effective Date and (ii) the date that is ten (10) Business Days after the date a Claim is first Allowed, all distributions payable on account of such Claim shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revert to the Reorganized Debtors or their successors or assigns, and all claims of any other Person (including the holder of a Claim in the same Class) to such distribution shall be discharged and forever barred. The Reorganized Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtors' books and records and the Bankruptcy Court's filings.

6.9 Satisfaction of Claims.

Unless otherwise provided in this Plan, any distributions and deliveries to be made on account of Allowed Claims under this Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

6.10 Manner of Payment under Plan.

Except as specifically provided herein, at the option of the Debtors or the Reorganized Debtors, as applicable, any Cash payment to be made under this Plan may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

6.11 Fractional Shares.

No fractional shares of Newco Equity (including Newco Equity issued upon exercise of the Warrants) or fractional Warrants shall be distributed. When any distribution would otherwise result in the issuance of a number of shares of Newco Equity (including Newco Equity issued upon exercise of the Warrants) or Warrants that is not a whole number, the Newco Equity or Warrants subject to such distribution shall be rounded to the next higher or lower

whole number as follows: (i) fractions equal to or greater than 1/2 shall be rounded to the next higher whole number, and (ii) fractions less than 1/2 shall be rounded to the next lower whole number. The total number of shares of Newco Equity (including Newco Equity issued upon exercise of the Warrants) or Warrants to be distributed on account of Allowed Claims shall be adjusted as necessary to account for the rounding provided for herein. No consideration shall be provided in lieu of fractional shares that are rounded down.

6.12 Minimum Distribution.

Neither the Reorganized Debtors nor the Disbursing Agent, as applicable, shall have an obligation to make a distribution pursuant to this Plan that is less than one (1) share of Newco Equity, less than one (1) Warrant, or less than $100.00 in Cash.

6.13 No Distribution in Excess of Amount of Allowed Claim.

Notwithstanding anything to the contrary in this Plan, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, Plan Distributions in excess of the Allowed amount of such Claim (plus any postpetition interest on such Claim solely to the extent permitted by section 6.2 of this Plan).

6.14 Allocation of Distributions Between Principal and Interest.

Except as otherwise provided in this Plan and subject to section 6.2 of this Plan or as otherwise required by law (as determined by the Reorganized Debtors), distributions with respect to an Allowed Claim shall be allocated first to the principal portion of such Allowed Claim (as determined for United States federal income tax purposes) and, thereafter, to the remaining portion of such Allowed Claim, if any.

6.15 Setoffs and Recoupments.

Other than with respect to the Claims in Class 3 and Class 4, each Reorganized Debtor, or such entity's designee as instructed by such Reorganized Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off or recoup against any Allowed Claim and the distributions to be made pursuant to this Plan on account of such Allowed Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that a Reorganized Debtor or its successors may hold against the holder of such Allowed Claim after the Effective Date; *provided*, *however*, that neither the failure to effect a setoff or recoupment nor the allowance of any Claim hereunder shall constitute a waiver or release by a Reorganized Debtor or its successor of any claims, rights, or Causes of Action that a Reorganized Debtor or its successor or assign may possess against the holder of such Claim.

6.16 Rights and Powers of Disbursing Agent.

The Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all applicable distributions or payments provided for under this Plan, (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including

any Final Order issued after the Effective Date) or pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

6.17 Expenses of Disbursing Agent.

Except as otherwise ordered by the Bankruptcy Court and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including for reasonable attorneys' fees and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors in the ordinary course of business.

6.18 Withholding and Reporting Requirements.

In connection with this Plan, any Person issuing any instrument or making any distribution or payment in connection therewith, shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority. In the case of a non-Cash distribution that is subject to withholding, the distributing party may require the intended recipient of such distribution to provide the withholding agent with an amount of Cash sufficient to satisfy such withholding tax as a condition to receiving such distribution or withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax) or (ii) pay the withholding tax using its own funds and retain such withheld property. The distributing party shall have the right not to make a distribution under this Plan until its withholding or reporting obligation is satisfied pursuant to the preceding sentences. Any amounts withheld pursuant to this Plan shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

Any party entitled to receive any property as an issuance or distribution under this Plan shall, upon request, deliver to the withholding agent or such other Person designated by the Reorganized Debtors a Form W-8, Form W-9 and/or any other forms or documents, as applicable, requested by any Reorganized Debtor to reduce or eliminate any required federal, state, or local withholding. If the party entitled to receive such property as an issuance or distribution fails to comply with any such request for a one hundred eighty (180) day period beginning on the date after the date such request is made, the amount of such issuance or distribution shall irrevocably revert to the applicable Reorganized Debtor and any Claim in respect of such distribution under this Plan shall be discharged and forever barred from assertion against such Reorganized Debtor or its respective property.

Notwithstanding the above, each holder of an Allowed Claim or Interest that is to receive a distribution under this Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such holder by any Governmental Unit, including income, withholding, and other tax obligations, on account of such Plan Distribution.

ARTICLE VII. PROCEDURES FOR RESOLVING CLAIMS.

7.1 Disputed Claims Process.

Notwithstanding section 502(a) of the Bankruptcy Code, and except as otherwise set forth in this Plan, holders of Claims need not file proofs of claim with the Bankruptcy Court, and the Reorganized Debtors and holders of Claims shall determine, adjudicate, and resolve any disputes over the validity and amounts of such Claims in the ordinary course of business as if the Chapter 11 Cases had not been commenced. Except for (i) proofs of claim asserting damages arising out of the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to section 8.3 of this Plan, (ii) in respect of non-ordinary course Administrative Expense Claims made under section 2.1 of this Plan or pursuant to the Confirmation Order and (iii) proofs of claim that have been objected to by the Debtors before the Effective Date, (x) the holders of Claims shall not be subject to any claims resolution process in the Bankruptcy Court in connection with their Claims and shall retain all their rights under applicable non-bankruptcy law to pursue their Claims against the Debtors or Reorganized Debtors in any forum with jurisdiction over the parties and (y) upon the Effective Date, any filed Claim, regardless of the time of filing, and including Claims filed after the Effective Date, shall be deemed withdrawn. To the extent not otherwise provided in this Plan, the deemed withdrawal of a proof of Claim is without prejudice to such claimant's rights under section 7.1 of this Plan to assert its Claims in any forum as though the Debtors' Chapter 11 Cases had not been commenced. From and after the Effective Date, the Reorganized Debtors may satisfy, dispute, settle, or otherwise compromise any Claim without approval of the Bankruptcy Court.

7.2 Objections to Claims.

Except insofar as a Claim is Allowed under this Plan, the Debtors, the Reorganized Debtors, or any other party in interest shall be entitled to object to Claims. Any objections to Claims shall be served and filed (i) on or before the ninetieth (90th) day following the later of (a) the Effective Date and (b) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (ii) such later date as ordered by the Bankruptcy Court upon motion filed by the Debtors or the Reorganized Debtors.

7.3 Estimation of Claims.

The Debtors or the Reorganized Debtors, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtors had previously objected to or otherwise disputed such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of

such Claim, the Debtors or the Reorganized Debtors may pursue supplementary proceedings to object to the allowance of such Claim.

7.4 Claim Resolution Procedures Cumulative.

All of the objection, estimation, and resolution procedures in this Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with this Plan without further notice or Bankruptcy Court approval.

7.5 No Distributions Pending Allowance.

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under this Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

7.6 Distributions after Allowance.

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as practicable after the date on which the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the holder of such Claim the distribution (if any) to which such holder is entitled under this Plan as of the Effective Date, without any interest to be paid on account of such Claim unless required by the Bankruptcy Code.

ARTICLE VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

8.1 General Treatment.

(a) As of and subject to the occurrence of the Effective Date and the payment of any applicable Cure Amount, except as otherwise provided in the Plan or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, all executory contracts and unexpired leases shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code, unless such executory contract or unexpired lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List. Any executory contract or unexpired lease that is not deemed assumed on the Effective Date in accordance with this section 8.1(a) shall be deemed rejected, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code.

(b) Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions, assumption and assignment, or rejections, as applicable, of such executory contracts or unexpired leases as provided for in the Plan, pursuant to sections 365(a) and 1123 of the Bankruptcy Code effective as of the Effective Date. Each Executory Contract or

Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall re-vest in and be fully enforceable by the applicable contracting Reorganized Debtor in accordance with its terms, except as such terms may have been modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law. Any motions to assume executory contracts or unexpired leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order.

8.2 Determination of Assumption and Cure Disputes; Deemed Consent.

(a) Following the Petition Date, the Debtors shall have served a notice to parties of executory contracts and unexpired leases to be assumed stating the Debtors' intention to assume such contracts or leases in connection with this Plan and indicating that Cure Amounts (if any) they believe are payable by the Debtors or the Reorganized Debtors, as applicable, as a condition to such assumption. Any monetary amounts by which any executory contract or unexpired lease to be assumed under this Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtors or Reorganized Debtors, as applicable, upon assumption thereof.

(b) If there is a dispute regarding (i) any Cure Amount, (ii) the ability of the Reorganized Debtors to provide adequate assurance of future performance (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed, or (iii) any other matter pertaining to assumption, such dispute shall be heard by the Bankruptcy Court prior to such assumption being effective. Notwithstanding the foregoing, to the extent the dispute relates solely to any Cure Amounts, the applicable Reorganized Debtor may assume the executory contract or unexpired lease prior to the resolution of any such dispute; *provided*, *however*, that the Reorganized Debtor reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the required Cure Amount by the contract counterparty; *provided*, *further*, *however*, that following entry of a Final Order resolving any such dispute, the Reorganized Debtor shall have the right to reject any executory contract or unexpired lease within thirty (30) days of such resolution, and any such rejection shall constitute rejection under the Plan.

(c) Any counterparty to an executory contract or unexpired lease that fails to object timely to the notice of the proposed assumption of such executory contract or unexpired lease or the proposed Cure Amount in accordance with the procedures set forth therein, shall be deemed to have assented to such assumption and Cure Amount and shall be forever barred, estopped, and enjoined from challenging the validity of such assumption thereafter.

(d) Subject to resolution of any dispute regarding any Cure Amount, all Cure Amounts shall be satisfied by the Debtors or Reorganized Debtors, as the case may be, upon assumption of the applicable underlying contracts and unexpired leases. Assumption of any executory contract or unexpired lease pursuant to this Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Amount, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the effective date of the

assumption. Any proofs of claim filed with respect to an executory contract or unexpired lease that has been assumed or assigned shall be deemed disallowed and expunged, without further notice to or action, order or approval of the Bankruptcy Court or any other Entity, upon the deemed assumption of such contract or unexpired lease.

8.3 Rejection Damages Claims.

Any counterparty to a contract or lease that is identified on the Rejected Executory Contract and Unexpired Lease List or is otherwise rejected by the Debtors must file and serve a proof of Claim on the applicable Debtor that is party to the contract or lease to be rejected no later than thirty (30) days after the later of (i) the Confirmation Date or (ii) the effective date of rejection of such executory contract or unexpired lease.

8.4 Survival of the Debtors' Indemnification Obligations.

The Company's indemnification provisions currently in place (whether in the bylaws, certificates of incorporation (or other equivalent governing documents), or employment contracts) for current and former directors, officers, employees, managing agents, and professionals and their respective affiliates will be assumed by the Company and not modified in any way by the Restructuring through the Plan or the transactions contemplated thereby.

8.5 Compensation and Benefit Plans.

All employment policies, and all compensation and benefits plans, policies, and programs of the Debtors applicable to their respective employees, retirees, and nonemployee directors, including all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life and accidental death and dismemberment insurance plans in effect on the Effective Date, are deemed to be, and shall be treated as, executory contracts under this Plan and, on the Effective Date, shall be assumed pursuant to sections 365 and 1123 of the Bankruptcy Code.

8.6 Insurance Policies.

(a) All insurance policies to which any Debtor is a party as of the Effective Date, including any directors' and officers' insurance policies, shall be deemed to be and treated as executory contracts and shall be assumed by the applicable Debtor or Reorganized Debtor and shall continue in full force and effect thereafter in accordance with their respective terms. All other insurance policies shall vest in the Reorganized Debtors.

(b) In addition, after the Effective Date, the Reorganized Debtors shall not terminate or otherwise reduce the coverage under any directors' and officers' insurance policies (including any "tail policy") in effect or purchased as of the Petition Date, and all members, managers, directors, and officers of the Company who served in such capacity at any time prior to the Effective Date or any other individuals covered by such insurance policies, shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such members, managers, directors, officers, or other individuals remain in such positions after the Effective Date.

8.7 Reservation of Rights.

(a) Neither the exclusion nor the inclusion by the Debtors of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Supplement, nor anything contained in this Plan, shall constitute an admission by the Debtors that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtors or the Reorganized Debtors or their respective affiliates has any liability thereunder.

(b) Except as explicitly provided in this Plan, nothing in this Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtors or the Reorganized Debtors under any executory or non-executory contract or unexpired or expired lease.

(c) Nothing in this Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtors or the Reorganized Debtors, as applicable, under any executory or non-executory contract or unexpired or expired lease.

(d) If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of its assumption under this Plan, the Debtors or Reorganized Debtors, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

ARTICLE IX. CONDITIONS PRECEDENT TO THE OCCURRENCE OF THE EFFECTIVE DATE.

9.1 Conditions Precedent to Effective Date.

The Effective Date shall not occur unless all of the following conditions precedent have been satisfied:

(a) the Definitive Documents shall be consistent in all material respects with the Restructuring Support Agreement and otherwise approved by the parties thereto in accordance with the Definitive Document Requirements;

(b) the Restructuring Support Agreement shall not have been terminated and shall be in full force and effect;

(c) the Plan Supplement has been filed;

(d) the Bankruptcy Court has entered the Confirmation Order and such Confirmation Order has not been stayed, modified, or vacated;

(e) the Canadian Plan Confirmation Recognition Order shall have been issued and such Canadian Plan Confirmation Recognition Order has not been stayed, modified, or vacated, and shall not be subject to an application for leave to appeal, appeal, or other review;

(f) the conditions to the effectiveness of the Exit Credit Agreement, and all documentation related thereto, have been satisfied or waived in accordance with the terms

thereof and the Exit Credit Agreement is in full force and effect and binding on all parties thereto;

(g) the conditions to the effectiveness of the Exit A/R Facility Agreement, and all documentation related thereto, have been satisfied or waived in accordance with the terms thereof except for the occurrence of the Effective Date.

(h) all governmental approvals, including Bankruptcy Court approval necessary to effectuate the Restructuring shall have been obtained and all applicable waiting periods have expired;

(i) the Professional Fee Escrow shall have been funded in full in Cash in an amount equal to the Professional Fee Reserve Amount;

(j) all Restructuring Fees and Expenses shall have been paid in Cash;

(k) the Plan shall not have been materially amended, altered, or modified from the Plan as confirmed by the Confirmation Order, unless such material amendment, alteration, or modification has been made in accordance with the terms of the Plan as confirmed by the Confirmation Order and the Restructuring Support Agreement; and

(l) all conditions to the Effective Date set forth in the Restructuring Support Agreement shall have been satisfied or waived in accordance with the terms set forth therein.

9.2 Waiver of Conditions Precedent.

(a) Subject to the terms of the Restructuring Support Agreement, each of the conditions precedent to the occurrence of the Effective Date may be waived in writing by the Debtors and the Requisite Creditors without leave of or order of the Bankruptcy Court. Subject to the terms of the Restructuring Support Agreement, if any such condition precedent is waived pursuant to this section and the Effective Date occurs, each party agreeing to waive such condition precedent shall be estopped from withdrawing such waiver after the Effective Date or otherwise challenging the occurrence of the Effective Date on the basis that such condition was not satisfied, the waiver of such condition precedent shall benefit from the "equitable mootness" doctrine, and the occurrence of the Effective Date shall foreclose any ability to challenge this Plan in any court.

(b) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action.

(c) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

9.3 Effect of Failure of a Condition.

If the conditions listed in section 9.1 of this Plan are not satisfied or waived in accordance with section 9.2 of this Plan on or before the first Business Day that is more than sixty (60) days after the date on which the Confirmation Order is entered or by such later date set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall (i) constitute a waiver or release of any Claims by or against or any Interests in the Debtors, (ii) prejudice in any manner the rights of any Person, or (iii) constitute an admission, acknowledgement, offer, or undertaking by the Debtors, any of the Consenting Creditors, or any other Person.

ARTICLE X. EFFECT OF CONFIRMATION.

10.1 Binding Effect.

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on after entry of the Confirmation Order, the provisions of this Plan shall bind every holder of a Claim against or Interest in any Debtor and inure to the benefit of and be binding on such holder's respective successors and assigns, regardless of whether the Claim or Interest of such holder is Impaired under this Plan and whether such holder has accepted this Plan.

10.2 Vesting of Assets.

Except as otherwise provided in this Plan, or any Plan Document, on and after the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all Assets of the Estates, including all claims, rights, and Causes of Action and any property acquired by the Debtors under or in connection with this Plan, shall vest in each respective Reorganized Debtor free and clear of all Claims, Liens, encumbrances, charges, and other interests. Subject to the terms of this Plan, on and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire, and dispose of property and prosecute, compromise, or settle any Claims (including any Administrative Expense Claims) and Causes of Action without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by this Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Confirmation Date for Professional Persons' fees, disbursements, expenses, or related support services without application to or order of the Bankruptcy Court.

10.3 Discharge of Claims and Interests.

Upon the Effective Date and in consideration of the distributions to be made under this Plan, except as otherwise expressly provided in this Plan or in the Confirmation Order, each holder (as well as any trustee or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Except as

otherwise provided in this Plan, upon the Effective Date, all such holders of Claims and Interests and their affiliates shall be forever precluded and enjoined, pursuant to sections 105, 524, and 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in any Debtor or Reorganized Debtor.

10.4 Pre-Confirmation Injunctions and Stays.

Unless otherwise provided in this Plan or a Final Order of the Bankruptcy Court, all injunctions and stays arising under or entered during the Chapter 11 Cases, whether under sections 105 or 362 of the Bankruptcy Code or otherwise, and in existence on the date of entry of the Confirmation Order, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

10.5 Injunction against Interference with Plan.

Upon entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

10.6 Plan Injunction.

(a) Except as otherwise provided in this Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests, and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan and the Plan Documents.

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by this Plan, including the injunctions set forth in section 10.6 of this Plan.

10.7 Releases.

(a) **Releases by Debtors. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.**

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in**

part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.

10.8 Exculpation.

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

10.9 Injunction Related to Releases and Exculpation.

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or

liabilities released pursuant to this Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in this Plan or the Confirmation Order.

10.10 Subordinated Claims.

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments thereof under this Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, sections 510(a), 510(b), or 510(c) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors reserve the right to reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

10.11 Retention of Causes of Action and Reservation of Rights.

Except as otherwise provided in this Plan, including sections 10.6, 10.7, 10.8, and 10.9, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including any affirmative Causes of Action against parties with a relationship with the Debtors. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Cases had not been commenced.

10.12 Ipso Facto and Similar Provisions Ineffective.

Any term of any prepetition policy, prepetition contract, or other prepetition obligation applicable to a Debtor shall be void and of no further force or effect with respect to any Debtor to the extent that such policy, contract, or other obligation is conditioned on, creates an obligation of the Debtor as a result of, or gives rise to a right of any Entity based on (i) the insolvency or financial condition of a Debtor, (ii) the commencement of the Chapter 11 Cases, (iii) the confirmation or consummation of this Plan, including any change of control that shall occur as a result of such consummation, or (iv) the Restructuring Transactions.

ARTICLE XI. RETENTION OF JURISDICTION.

11.1 Retention of Jurisdiction.

On and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in or related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases and any disputes over Cure Amounts resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the entry of the Confirmation Order;

(c) to hear and resolve any disputes arising from or related to (i) any orders of the Bankruptcy Court granting relief under Bankruptcy Rule 2004 or (ii) any protective orders entered by the Bankruptcy Court in connection with the foregoing;

(d) to ensure that distributions to holders of Allowed Claims are accomplished as provided in this Plan and the Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under this Plan;

(e) to consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, except as otherwise permitted under this Plan or the Confirmation Order;

(f) to enter, implement, or enforce such orders as may be appropriate in the event that the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(g) to issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of this Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(h) to hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(i) to hear and determine all Fee Claims;

(j) to resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(k) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, any transactions or payments in furtherance of either, or any agreement, instrument, or other document governing or related to any of the foregoing, other than the Exit Credit Facility Agreement and the Exit A/R Facility Agreement;

(l) to take any action and issue such orders, including any such action or orders as may be necessary after entry of the Confirmation Order or the occurrence of the

Effective Date, as may be necessary to construe, enforce, implement, execute, and consummate this Plan;

(m) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(o) to hear and determine any other matters related to the Chapter 11 Cases and not inconsistent with the Bankruptcy Code or title 28 of the United States Code;

(p) to resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Cases, any bar date established in the Chapter 11 Cases, or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose for determining whether a Claim or Interest is discharged hereunder or for any other purposes;

(q) to hear, adjudicate, decide, or resolve any and all matters related to ARTICLE X of this Plan, including, without limitation, the releases, discharge, exculpations, and injunctions issued thereunder;

(r) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory, except as otherwise permitted under this Plan or the Confirmation Order;

(s) to recover all Assets of the Debtors and property of the Estates, wherever located; and

(t) to enter a final decree closing each of the Chapter 11 Cases.

ARTICLE XII. MISCELLANEOUS PROVISIONS.

12.1 Exemption from Certain Transfer Taxes.

Pursuant to section 1146 of the Bankruptcy Code, (i) the issuance, transfer or exchange of any Securities, instruments or documents, (ii) the creation of any Lien, mortgage, deed of trust or other security interest, (iii) all sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Confirmation Date through and including the Effective Date, including any transfers effectuated under this Plan, (iv) any assumption, assignment, or sale by the Debtors of their interests in unexpired leases of nonresidential real property or executory contracts pursuant to section 365(a) of the Bankruptcy Code, (v) the grant of Collateral under the Exit Credit Agreement, and (vi) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, this Plan, including the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee or other similar tax, mortgage tax, real estate transfer tax, mortgage recording

tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or Governmental Unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax or similar tax.

12.2 Request for Expedited Determination of Taxes.

The Debtors shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns filed, or to be filed, for any and all taxable periods ending after the Petition Date through the Effective Date.

12.3 Dates of Actions to Implement Plan.

In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day but shall be deemed to have been completed as of the required date.

12.4 Amendments.

(a) **Plan Modifications**. Subject to the Restructuring Support Agreement, this Plan may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court. In addition, subject to the Restructuring Support Agreement, after the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Allowed Claims pursuant to this Plan, the Debtors may remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes of effects of this Plan, and any holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified, or supplemented; *provided*, *however*, that any such modification is acceptable to the Requisite Creditors.

(b) **Certain Technical Amendments**. Subject to the Restructuring Support Agreement, prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court; *provided*, *however*, that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests under this Plan.

12.5 Revocation or Withdrawal of Plan.

Subject to the terms of the Restructuring Support Agreement, the Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors. If, with respect to a Debtor, this Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to such Debtor does not occur on the Effective Date, then, with respect to such Debtor (i) this Plan shall be null and

void in all respects, (ii) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts or unexpired leases affected by this Plan, and any document or agreement executed pursuant to this Plan shall be deemed null and void, and (iii) nothing contained in this Plan shall (a) constitute a waiver or release of any Claim by or against, or any Interest in, such Debtor or any other Person, (b) prejudice in any manner the rights of such Debtor or any other Person, or (c) constitute an admission of any sort by any Debtor or any other Person.

12.6 Severability.

If, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, subject to the terms of the Restructuring Support Agreement, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation by the Bankruptcy Court, subject to the terms of the Restructuring Support Agreement, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, Impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with this section, is (i) valid and enforceable pursuant to its terms, (ii) integral to this Plan and may not be deleted or modified without the consent of the Debtors or the Reorganized Debtors (as the case may be), and (iii) nonseverable and mutually dependent.

12.7 Governing Law.

Except to the extent that the Bankruptcy Code or other federal law is applicable or to the extent that a Plan Document provides otherwise, the rights, duties, and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without giving effect to the principles of conflicts of laws thereof (other than section 5-1401 and section 5-1402 of the New York General Obligations Law).

12.8 Immediate Binding Effect.

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of this Plan and the Plan Documents shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the Reorganized Debtors, the holders of Claims and Interests, the Released Parties, and each of their respective successors and assigns.

12.9 Successors and Assigns.

The rights, benefits, and obligations of any Person named or referred to in this Plan shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor, or permitted assign, if any, of each such Person.

12.10 Entire Agreement.

On the Effective Date, this Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

12.11 Computing Time.

In computing any period of time prescribed or allowed by this Plan, unless otherwise set forth in this Plan or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12.12 Exhibits to Plan.

All exhibits, schedules, supplements, and appendices to this Plan (including the Plan Supplement) are incorporated into and are a part of this Plan as if set forth in full in this Plan.

12.13 Notices.

All notices, requests, and demands hereunder shall be in writing (including by facsimile transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(a) if to the Debtors or Reorganized Debtors:

Skillsoft Corporate US Headquarters
300 Innovative Way, Suite 201
Nashua, NH 03062
Telephone: (603) 324-3000
Attn: Greg Porto

– and –

Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.
Telephone: (302) 651-7700

Facsimile: (302) 651-7701

Attorneys for Debtors

– and –

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Gary T. Holtzer, Esq., Robert J. Lemons, Esq., and
Katherine T. Lewis, Esq.
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Debtors

(b) if to a member of the Ad Hoc First Lien Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
Attn: Scott J. Greenberg, Esq., Steven A. Domanowski, Esq.,
Matthew J. Williams, Esq., and Christina M. Brown, Esq.
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for Ad Hoc First Lien Group

(c) if to a member of the Ad Hoc Crossholder Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Milbank LLP
55 Hudson Yards
New York, NY 10001
Attn: Evan Fleck, Esq., Yushan Ng, Esq., Sarah Levin, Esq., and
Benjamin Schak, Esq.
Telephone: (212) 530-5000
Facsimile: (212) 530-5219

Attorneys for Ad Hoc Crossholder Group

After the occurrence of the Effective Date, the Reorganized Debtors have authority to send a notice to entities that in order to continue to receive documents pursuant to

Bankruptcy Rule 2002, such entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002; *provided*, *however*, that the U.S. Trustee need not file such a renewed request and shall continue to receive documents without any further action being necessary. After the occurrence of the Effective Date, the Reorganized Debtors are authorized to limit the list of entities receiving documents pursuant to Bankruptcy Rule 2002 to those entities that have filed such renewed requests.

12.14 Reservation of Rights.

Except as otherwise provided herein, this Plan shall be of no force or effect unless the Bankruptcy Court enters the Confirmation Order. None of the filing of this Plan, any statement or provision of this Plan, or the taking of any action by the Debtors with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of the Debtors with respect to any Claims or Interests prior to the Effective Date.

Dated: June 14, 2020
Wilmington, Delaware

Respectfully submitted,

/s/ *John Frederick*
Name: John Frederick
Title: Chief Administrative Officer

on behalf of

Skillsoft Corporation
Amber Holding Inc.
SumTotal Systems LLC
MindLeaders, Inc.
Accero, Inc.
CyberShift Holdings, Inc.
CyberShift, Inc. (U.S.)
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
ThirdForce Group Limited
Skillsoft U.K. Limited
Skillsoft Canada, Ltd.

Exhibit A

Restructuring Support Agreement

EXECUTION VERSION

RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (collectively with the Reorganization Term Sheet (as defined below) and all other exhibits, schedules and attachments hereto and thereto, each as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, this "**Agreement**"), dated as of June 12, 2020, is entered into by and among:

(a) Pointwell Limited, a private limited company incorporated in Ireland, having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 and registered under number 540778 (the "**Parent**"), and each entity listed on Schedule 1 to the Reorganization Term Sheet, each such entity a subsidiary or affiliate of the Parent (each, a "**Company Party**" and, collectively with the Parent, the "**Company**" or the "**Debtors**"); and

(b) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**First Lien Credit Agreement**"; the term loans issued thereunder, the "**First Lien Term Loans**"; the revolving loans issued thereunder, the "**First Lien Revolving Loans**" and, together with the First Lien Term Loans, the "**First Lien Debt**") among Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054 ("**Holdings**"), Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790 (the "**Lux Borrower**"), Skillsoft Canada Ltd, a New Brunswick corporation (the "**Canadian Borrower**"), and Skillsoft Corporation (the "**U.S. Borrower**" and, collectively with the Lux Borrower and the Canadian Borrower, the "**First Lien Borrowers**"), the administrative and collateral agent party thereto (in such capacity, the "**First Lien Agent**"), the lenders party thereto from time to time (the "**First Lien Lenders**" and, the undersigned First Lien Lenders (together with their respective successors and permitted assigns) and any subsequent First Lien Lender that becomes party hereto in accordance with the terms hereof, each in its capacity as a First Lien Lender, each individually, a "**Consenting First Lien Lender**" and, collectively, the "**Consenting First Lien Lenders**"), and the other parties thereto from time to time; and

(c) the undersigned lenders, or investment advisors or managers for the account of lenders, party to that certain Second Lien Credit Agreement, dated as of April 28, 2014, (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Second Lien Credit Agreement**" and, together with the First Lien Credit Agreement, the "**Credit Agreements**"; the term loans issued under the Second Lien Credit Agreement, the "**Second Lien Debt**" and, together with the First Lien Debt, the "**Indebtedness**") among Holdings, the Lux Borrower, the U.S. Borrower (together with the Lux Borrower in their capacity borrowers under the Second Lien Credit Agreement, the "**Second Lien Borrowers**"), and the administrative and collateral agent party thereto (in such capacity, the "**Second Lien Agent**" and, together with the First Lien Agent, the "**Agents**"), the lenders party thereto from time to time (the "**Second Lien Lenders**" and, the undersigned Second Lien Lenders (together with their respective successors and permitted assigns) and any subsequent Second Lien Lender that becomes

party hereto in accordance with the terms hereof, each in its capacity as a Second Lien Lender, each individually, a "**Consenting Second Lien Lender**" and, collectively, the "**Consenting Second Lien Lenders**" and, together with the Consenting First Lien Lenders, the "**Consenting Creditors**").

The Company Parties and each Consenting Creditor, and any subsequent Person that becomes a party hereto in accordance with the terms hereof are referred to herein collectively as the "**Parties**" and each individually as a "**Party**" until the end of the Support Period applicable to it. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Restructuring Term Sheets (defined below), as applicable.

RECITALS

WHEREAS, the Parties have negotiated in good faith at arm's length and agreed to enter into certain transactions in furtherance of a global restructuring of the Company's capital structure (the "**Restructuring**"), which is anticipated to be implemented through, among other things, a plan of reorganization (as may be supplemented, amended, or modified from time to time, the "**Plan**" and any supplement(s) thereto, as such may be supplemented, amended, or modified from time to time, the "**Plan Supplement**"), a corresponding disclosure statement in respect of the Plan (as may be supplemented, amended, or modified from time to time, the "**Disclosure Statement**"), a solicitation of votes thereon (the "**Solicitation**" and the materials with respect thereto, the "**Solicitation Materials**"), and the commencement by the Parent and each Company Party of a voluntary case (the "**Chapter 11 Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**");

WHEREAS, as of the date hereof, the Consenting First Lien Lenders, in the aggregate, hold, manage, or control approximately 81.2% of the aggregate outstanding principal amount of the First Lien Debt, including approximately 84.1% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 33.3% of the aggregate outstanding principal amount of the First Lien Revolving Loans;

WHEREAS, as of the date hereof, the Consenting Second Lien Lenders, in the aggregate, hold, manage, or control approximately 83.5% of the aggregate outstanding principal amount of the Second Lien Debt;

WHEREAS, the Company and certain of the Consenting First Lien Lenders (in such capacity, the "**DIP Lenders**") have reached an agreement regarding the Company's entry into the DIP Credit Agreement (defined below);

WHEREAS, the Restructuring contemplates pursuing a recapitalization transaction in accordance with the terms of the Reorganization Term Sheet (defined below); and

WHEREAS, subject to the terms and conditions set forth herein, the Parties desire to express to each other their mutual support and commitment in respect of the matters set forth in this Agreement, including the Restructuring Term Sheets;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound on a several but not joint basis, agree as follows:

1. **Certain Definitions.**

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

(a) "**Ad Hoc Crossholder Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit A** hereto (together with their respective successors and permitted assigns) represented by Milbank LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 38.50% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 36.76% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 66.67% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 79.07% of the aggregate outstanding principal amount of the Second Lien Debt.

(b) "**Ad Hoc First Lien Group**" means that certain ad hoc group of First Lien Lenders and Second Lien Lenders listed on **Exhibit B** hereto (together with their respective successors and permitted assigns) represented by Gibson, Dunn & Crutcher LLP, which, as of the date hereof, holds, manages, or controls, in the aggregate, approximately 51.28% of the aggregate outstanding principal amount of the First Lien Debt (comprised of approximately 54.44% of the aggregate outstanding principal amount of the First Lien Term Loans and approximately 0.00% of the aggregate outstanding principal amount of the First Lien Revolving Loans) and approximately 6.36% of the aggregate outstanding principal amount of the Second Lien Debt.

(c) "**Alternative Transaction"** means any new money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, winding up, assignment for the benefit of creditors, transaction, debt investment, equity investment, joint venture, partnership, sale, plan proposal, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more of the Parent, the Company Parties or a non-Debtor subsidiary of Parent or the debt, equity, or other interests in any one or more of the Parent or a subsidiary of Parent that is an alternative to the Restructuring (including any of the Restructuring Transactions), the Plan and the transactions contemplated by the Plan.

(d) "**Board Incentive Plan**" or "**BIP**" means a post-Effective Date board of directors incentive plan, consistent in all material respects with the terms set forth on the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(e) "**Business Day**" means any day, other than a Saturday, Sunday, or "legal holiday" (as defined in Rule 9006(a) of the Federal Rules of Bankruptcy Procedure).

(f) "**Canadian Court**" means the Court of Queen's Bench of New Brunswick (Trial Division).

(g) "**Canadian Final DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Final DIP Order in Canada.

(h) "**Canadian Initial Recognition Order**" means an order of the Canadian Court, which, among other things, recognizes the Chapter 11 Cases as a "foreign main proceeding" under Part IV of the CCAA, commences the Canadian Recognition Proceeding and grants a stay in Canada.

(i) "**Canadian Interim DIP Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which, among other things, recognizes the Interim DIP Order in Canada and provides for a super priority charge over the collateral of the Canadian Borrower and collateral located in Canada of the other Company Parties in respect of the DIP Lenders' claims. For the avoidance of doubt, the Canadian Interim DIP Recognition Order may be part of the Canadian Supplemental Order.

(j) "**Canadian Plan Confirmation Recognition Order**" means an order of the Canadian Court in the Canadian Recognition Proceeding, which recognizes and enforces the Confirmation Order in Canada.

(k) "**Canadian Recognition Orders**" means, collectively, the Canadian Initial Recognition Order, the Canadian Interim DIP Recognition Order, the Canadian Supplemental Order, the Canadian Final DIP Recognition Order, the Canadian Plan Confirmation Recognition Order and any other order of the Canadian Court in the Canadian Recognition Proceeding.

(l) "**Canadian Recognition Proceeding**" means a proceeding commenced in the Canadian Court to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring.

(m) "**Canadian Supplemental Order"** means an order of the Canadian Court, which grants customary additional relief in the Canadian Recognition Proceeding.

(n) "**CCAA**" means the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended.

(o) "**Claim**", with respect to Parent or any Company Party, has the meaning set forth in section 101(5) of the Bankruptcy Code.

(p) "**Confirmation Order**" means the order of the Bankruptcy Court confirming the Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Disclosure Statement).

(q) "**Consenting Creditor Advisors**" means Consenting Creditor Counsel, Greenhill & Co., LLC, as financial advisor to the Ad Hoc First Lien Group, Moelis & Company LLC, as financial advisor to the Ad Hoc Crossholder Group, and any other professional advisors (including non-U.S. counsel and local counsel) that may be retained from time to time by the Ad Hoc First Lien Group or the Ad Hoc Crossholder Group.

(r) "**Consenting Creditor Counsel**" means Gibson, Dunn & Crutcher LLP, as counsel to the Ad Hoc First Lien Group, and Milbank LLP, as counsel to the Ad Hoc Crossholder Group.

(s) "**Definitive Documents**" means (i) this Agreement, (ii) the Plan and the Plan Supplement, (iii) the Disclosure Statement and the Solicitation Materials, (iv) the Confirmation Order, (v) the motion seeking approval by the Bankruptcy Court of the DIP Facility, the applicable proposed DIP Orders related thereto, and the DIP Financing Documents, (vi) the New Corporate Governance Documents, (vii) any material document implementing the Restructuring, including, the Pledge Enforcement Documents, the Canadian Recognition Orders, any material motion, brief, or other pleading filed by the Company in the Chapter 11 Cases or by the Company or its "foreign representative" (or equivalent) in any recognition or ancillary proceeding; (viii) the Exit Financing Documents, (ix) the Exit AR Financing Documents, (x) the Warrant Agreements, (xi) the Incentive Plans, and (xii) any material motion or pleading seeking approval or confirmation of any of the foregoing documents, including the motion to approve the Disclosure Statement, the brief in support of confirmation, and pleadings in support of recognition in a Recognition Proceeding, and (xiii) any proposed order to approve any of the foregoing.

(t) "**DIP Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the DIP Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(u) "**DIP Facility**" means the debtor-in-possession facility to be provided to the Company pursuant to (x) the DIP Credit Agreement and (y) the terms and conditions of the interim and final orders of the Bankruptcy Court approving the same (respectively, the "**Interim DIP Order**" and the "**Final DIP Order**" and, collectively, the "**DIP Orders**").

(v) **"DIP Financing Documents**" means the DIP Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith and the DIP Orders, in each case, in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(w) "**DIP and Exit Facility Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit C**.

(x) "**Effective Date**" means the date upon which all conditions to the effectiveness of the Plan have been satisfied or waived in accordance with the terms thereof and the Plan becomes effective.

(y) "**Evergreen Skills Entities**" means Holdings, the Lux Borrower, Evergreen Skills Holding Lux, and Evergreen Skills Top Holding Lux.

(z) "**Existing AR Credit Agreement**" means that certain Credit Agreement (as may be further amended, restated, amended and restated, waived, supplemented, or otherwise modified from time to time), dated as of December 20, 2018, among Skillsoft Receivables

Financing LLC, a Delaware Limited Liability Company, the lenders party thereto and CIT Bank, N.A., as administrative agent, collateral agent and accounts bank ("**CIT**").

(aa) "**Exit AR Credit Agreement**" means the credit agreement evidencing the Exit AR Facility on the terms set forth in the Reorganization Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(bb) "**Exit AR Financing Documents**" means the Exit AR Credit Agreement, as well as related agreements, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(cc) "**Exit Credit Agreement**" means the credit agreement (including any amendments, modifications, or supplements thereto) evidencing the Exit Credit Facility on the terms set forth in the DIP and Exit Facility Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(dd) "**Exit Credit Facility**" means the term loan facility to be provided to the Company on the Effective Date pursuant to the Exit Credit Agreement.

(ee) "**Exit Financing Documents**" means the Exit Credit Agreement, together with any related notes, certificates, agreements, security agreements, documents and instruments (including any amendments, restatements, supplements or modifications of any of the foregoing) related to or executed in connection therewith, in each case, in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ff) "**Governance Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit E**.

(gg) "**Incentive Plans**" means the Board Incentive Plan and the Management Incentive Plan.

(hh) "**Interest**" means any equity interest (as defined in section 101(16) of the Bankruptcy Code) of the Parent or any Company Party, including all ordinary shares, units, common stock, preferred stock, membership interests, partnership interests or other instruments, evidencing any fixed or contingent ownership interest in the Parent or any Company Party, whether or not transferable, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest in the Parent or any Company Party, that existed immediately before the Effective Date.

(ii) "**Management Incentive Plan**" or "**MIP**" means a post-Effective Date management incentive plan consistent in all material respects with the terms in the Reorganization Term Sheet, subject to compliance with Luxembourg law, as applicable.

(jj) "**New Board**" means the board of directors of Newco Parent.

(kk) "**New Corporate Governance Documents**" means the applicable Organizational Documents and stockholders agreement (if applicable) of Newco Parent, in each

case, consistent with the Governance Term Sheet and in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(ll) "**Newco Borrower**" means a newly-formed entity organized under the laws of Luxembourg that will directly own 100% of the equity interests of the Reorganized Parent.

(mm) "**Newco Equity**" means the equity interests of Newco Parent to be issued in connection with implementation of the Plan.

(nn) "**Newco Parent**" means a newly-formed entity organized under the laws of Luxembourg that will directly or indirectly own 100% of the equity interests of the Reorganized Parent and be treated as a corporation for tax purposes, as set forth in the Restructuring Transaction Steps.

(oo) "**Organizational Documents**" means, of any Person, the forms of certificates or articles of incorporation, certificates, or articles of formation, bylaws, constitutions, limited liability company agreements, or other forms of organization documents of such Person.

(pp) "**Person**" means any "person" as defined in section 101(41) of the Bankruptcy Code, including any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

(qq) "**Pledge Enforcement**" means the appointment of a receiver (the "**Receiver**") in Ireland and/or exercise of other rights and remedies by the Collateral Agent (approved by the Parent and Consenting First Lien Lenders constituting the Required Lenders under the First Lien Credit Agreement with respect to (A) the entire share capital of Parent (the "**Pointwell Share Capital**"), which has been pledged to (x) the First Lien Lenders pursuant to that certain First Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**First Lien Share Charge**"), between the Lux Borrower and the First Lien Agent and (y) the Second Lien Lenders pursuant to that certain Second Lien Share Charge and Security Assignment, dated as of April 28, 2014 (the "**Second Lien Share Charge**"), between the Lux Borrower and the Second Lien Agent, and (B) certain intercompany obligations owed to the Lux Borrower by the Parent (the "**Pointwell Intercompany Debt**") which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.

(rr) "**Pledge Enforcement Documents**" means (i) a letter from the required number of First Lien Lenders instructing the First Lien Agent to accelerate and demand repayment of the First Lien Debt and appoint the Receiver; (ii) a letter from the First Lien Agent accelerating and demanding repayment of the First Lien Debt; (iii) the instrument of appointment for the Receiver; (iv) a sale and purchase agreement governing the sale and purchase of the Pointwell Share Capital (governed by Irish law); (v) an assignment agreement of the Pointwell Intercompany

Debt; and (vi) any ancillary documentation that may be necessary or desirable to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and/or Share and Intercompany Debt Transfer, in each case in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

(ss) "**Recognition Proceeding**" means any proceeding commenced in a jurisdiction outside of the United States to recognize or otherwise give effect to the Chapter 11 Cases in furtherance of the Restructuring, including the Canadian Recognition Proceeding.

(tt) "**Reorganized Debtors**" means the Parent and each of the Company Parties as reorganized on the Effective Date in accordance with the Plan.

(uu) "**Reorganized Parent**" means the Parent as reorganized on the Effective Date in accordance with the Plan.

(vv) "**Reorganization Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit D**.

(ww) "**Requisite Creditors**" means the Requisite First Lien Lenders and the Requisite Second Lien Lenders.

(xx) "**Requisite First Lien Lenders**" means, as of the date of determination, Consenting First Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the First Lien Debt then held by all Consenting First Lien Lenders.

(yy) "**Requisite Second Lien Lenders**" means, as of the date of determination, Consenting Second Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the Second Lien Debt then held by all Consenting Second Lien Lenders.

(zz) "**Restructuring Term Sheets**" means, collectively, the Reorganization Term Sheet, the DIP and Exit Facility Term Sheet, the Governance Term Sheet, and the Warrant Term Sheet, as applicable.

(aaa) "**Restructuring Transaction Steps**" means a memorandum of transaction steps (including any schedules and exhibits thereto) in form and substance reasonably acceptable to both the Company and the Requisite Creditors.

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

(ccc) "**Share and Intercompany Debt Transfer**" means the sale or transfer (and any steps taken to effect such sale or transfer) and/or exercise of other rights and remedies by the First Lien Agent of or in relation to the Pointwell Share Capital and the Pointwell Intercompany Debt by the Receiver to Newco Borrower in accordance with the Pledge Enforcement Documents.

(ddd) "**Sponsor**" means Charterhouse Capital Partners LLP and its affiliates (excluding the Company), including CCP IX LP No. 1, CCP IX LP No. 2, and CCP IX Co-Investment LP.

(eee) "**Sponsor Side Agreement**" means an agreement evidencing the Sponsor's and the Evergreen Skills Entities' consent to the Restructuring by and among the Company, the Sponsor, the Evergreen Skills Entities, and the Consenting Creditors party thereto.

(fff) "**Support Effective Date**" means the date on which (i) counterpart signature pages to this Agreement shall have been executed and delivered by (A) the Company and (B) Consenting Creditors (x) holding at least 66⅔% of the aggregate outstanding principal amount of the First Lien Debt and (y) holding at least 66⅔% of the aggregate outstanding principal amount of the Second Lien Debt and (ii) all invoiced and outstanding reasonable and documented fees and expenses (for which invoices have been received by the Company at least one (1) Business Day prior to the date the conditions in subsection (i) are satisfied) of each of the Consenting Creditor Advisors have been paid in full.

(ggg) "**Support Period**" means, with respect to each Party, the period commencing on the Support Effective Date and ending on the earlier of the (i) date on which this Agreement is terminated in accordance with Section 5 hereof with respect to that Party and (ii) the Effective Date.

(hhh) "**Voting Deadline**" means 5:00 p.m. (prevailing Eastern Time) on June 24, 2020 (or such other time as may be mutually agreed by the Company and the Requisite Creditors).

(iii) "**Warrant Agreements**" means warrant agreements evidencing the warrants to be issued on the Effective Date on the terms set forth in the Warrant Term Sheet and otherwise in form and substance reasonably acceptable to both the Requisite Creditors and the Company.

(jjj) "**Warrant Term Sheet**" means that certain term sheet (including any schedules and exhibits thereto) annexed hereto as **Exhibit F**.

2. **Implementation; Plan of Reorganization; Recognition Proceedings.**

(a) Restructuring Term Sheets. The Restructuring Term Sheets are expressly incorporated herein and made a part of this Agreement. The terms and conditions of the Restructuring are set forth in the Restructuring Term Sheets; *provided, however*, that the Restructuring Term Sheets are supplemented by the terms and conditions of this Agreement. In the event of any inconsistencies between the terms of this Agreement and the Restructuring Term Sheets, the terms of the applicable Restructuring Term Sheet shall govern.

(b) Definitive Documents. Each of the Definitive Documents shall (i) contain terms and conditions consistent in all material respects with this Agreement, the Restructuring Term Sheets, and the Restructuring Transaction Steps and (ii) otherwise (x) except with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the Requisite Creditors and the Company, or (y) with respect to the DIP Financing Documents, be in form and substance reasonably acceptable to both the DIP Lenders and the Company.

(c) Milestones. The Company shall use commercially reasonable efforts to comply with each of the following milestones (each, a "**Milestone**" and, collectively,

the "**Milestones**"), as applicable, unless otherwise expressly and mutually agreed in writing among the Company and the Requisite Creditors:

(i) Chapter 11 Cases

(A) Solicitation. At or prior to 11:59 p.m. prevailing Eastern Time on June 14, 2020, the Company shall have commenced the Solicitation in accordance with section 1126(b) of the Bankruptcy Code;

(B) Commencement of the Chapter 11 Cases. Provided that the Support Effective Date has occurred, the Company hereby agrees that, as soon as reasonably practicable, but in no event later than 11:59 p.m. prevailing Eastern Time on June 14, 2020 (the "**Outside Petition Date**") (the date on which such filing actually occurs, the "**Petition Date**"), each of the Parent and the Company Parties shall commence the Chapter 11 Cases;

(C) Filing of the Plan and Disclosure Statement. No later than one (1) Business Day following the Petition Date, the Company shall file the Plan (the votes for which shall have already been solicited), the Disclosure Statement, and a motion seeking preliminary approval of the Disclosure Statement and requesting a combined hearing for approval of the Disclosure Statement and confirmation of the Plan with the Bankruptcy Court (the "**Prepack Scheduling Order**");

(D) DIP Financing and Cash Collateral Motion. No later than one (1) Business Day following the Petition Date, the Company shall file a motion with the Bankruptcy Court seeking interim and final authority to procure the DIP Facility and consensually use cash collateral, each in accordance with the DIP Orders;

(E) Interim DIP Order; Prepack Scheduling Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is three (3) Business Days after the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors) and the Prepack Scheduling Order (in form and substance reasonably acceptable to the Requisite Creditors);

(F) Final DIP Order. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is twenty-five (25) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order;

(G) Confirmation. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is sixty (60) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Confirmation Order, and, if applicable, an order approving the Disclosure Statement (the date on which the Bankruptcy Court enters the Confirmation Order, the "**Confirmation Date**"); and

(H) Effective Date. At or prior to 11:59 p.m. prevailing Eastern Time on the date that is eighty (80) calendar days after the Petition Date (the "**Outside Date**"), the Effective Date shall have occurred.

(ii) Canadian Recognition Proceeding.

(A) Commencement of the Canadian Recognition Proceeding. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Interim DIP Order and Prepack Scheduling Order, the Canadian Borrower shall commence the Canadian Recognition Proceeding by filing, with the Canadian Court, a petition for the issuance of the Canadian Initial Recognition Order and Canadian Supplemental Order (which latter order shall include, for greater certainty, the Canadian Interim DIP Order), each in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors. The granting of the Canadian Recognition Orders shall be a condition precedent to the effectiveness of the Plan.

(B) Canadian Final DIP Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Final DIP Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court, of the Canadian Final DIP Recognition Order in the Canadian Recognition Proceeding (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(C) Canadian Plan Confirmation Recognition Order. As soon as reasonably practicable, but in any event no later than four (4) Business Days following the entry of the Confirmation Order, the Canadian Borrower shall file a motion for the issuance, by the Canadian Court of the Canadian Plan Confirmation Recognition Order (in form and substance reasonably acceptable to the DIP Lenders and the Requisite Creditors).

(d) Pledge Enforcement. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting Required Lenders as defined under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effectuate the Pledge Enforcement and take such other steps as may be necessary or desirable (including voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement and the Share and Intercompany Debt Transfer, including entry into the Pledge Enforcement Documents.

3. **Agreements of the Consenting Creditors.**

(a) Voting; Support. Each Consenting Creditor agrees (on a several and not joint basis) that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall:

(i) timely vote or cause to be voted all of its Claims and Interests, to accept the Plan by delivering or causing to be delivered by its duly authorized, executed, and completed ballot or ballots, and consent to and, if applicable, not opt out of, the releases set forth in the Plan against each Released Party on a timely basis and, in any event, within five (5) Business Days following the commencement of the Solicitation;

(ii) not change or withdraw (or cause or direct to be changed or withdrawn) any such vote or release described in clause (i) or (ii) above; *provided, however*, that notwithstanding anything in this Agreement to the contrary, a Consenting Creditor's vote and release may, upon prior written notice to the Company and the other Parties, be revoked (and, upon such revocation, deemed void ab initio) by any Consenting Creditor at any time following (and solely in the event of) the termination of this Agreement with respect to such Consenting Creditor pursuant to Section 5 hereof;

(iii) timely vote (or cause to be voted) its Claims or Interests against and express opposition to any Alternative Transaction;

(iv) negotiate in good faith with the Company regarding the form and substance of the Definitive Documents and, as applicable, execute the Definitive Documents; *provided, however*, that no Consenting Creditor shall be obligated to agree to any modification of any document that is materially inconsistent with the Restructuring Term Sheets (unless otherwise consented to in accordance with Section 9 hereof);

(v) not directly or indirectly, through any Person (including any administrative agent or collateral agent) seek, solicit, propose, support, assist, engage in negotiations with or participate in the formulation, preparation, filing or prosecution of any Alternative Transaction or object to or take any other action that is inconsistent with or that would reasonably be expected to prevent, interfere with, delay or impede the Solicitation, approval of the Disclosure Statement, or confirmation and consummation of the Plan, any Recognition Proceeding, the Share and Intercompany Debt Transfer, the approval of and entry of the DIP Orders, or the consummation of the Restructuring;

(vi) (A) not direct any administrative agent or collateral agent (as applicable) to take any action inconsistent with such Consenting Creditor's obligations under this Agreement, and (B) if any administrative agent or collateral agent takes any action inconsistent with such Consenting Creditor's obligations under this Agreement, to use commercially reasonable efforts to cause such

administrative agent or collateral agent to cease, withdraw, and refrain from taking any such action; *provided* that each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent vis-à-vis the Company or any of its assets except as set forth in this Agreement;

(vii) support and take all actions necessary or reasonably requested by the Company to facilitate the Restructuring and the Solicitation, approval of and entry of the DIP Orders, confirmation and consummation of the Plan, any Recognition Proceeding, and the Share and Intercompany Debt Transfer within the timeframes contemplated by this Agreement; and

(viii) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring, negotiate in good faith appropriate additional, or alternative provisions to address any such impediment to the extent reasonably requested by the Company; *provided*, for the avoidance of doubt, that no such additional or alternative provisions shall modify any Consenting Creditor's economic treatment as set forth in the Restructuring Term Sheets without such Consenting Creditor's express written consent.

(b) Transfers. Each Consenting Creditor agrees that, for the duration of the Support Period applicable to such Consenting Creditor, such Consenting Creditor shall not sell, transfer, loan, issue, pledge, hypothecate, assign, or otherwise dispose of (each, a "**Transfer**"), directly or indirectly, in whole or in part, any of its Claims or Interests or any option thereon (including grant any proxies, deposit any Claims or Interests into a voting trust, or enter into a voting agreement with respect thereto), unless the transferee thereof either (i) is a Consenting Creditor or (ii) prior to such Transfer, agrees in writing for the benefit of the Parties to become a Consenting Creditor and to be bound by all of the terms of this Agreement applicable to Consenting Creditors (including with respect to any and all Claims or Interests it already may hold against or in the Company prior to such Transfer) by executing a joinder agreement, a form of which is annexed hereto as **Exhibit G** (the "**Joinder Agreement**"), and delivering an executed copy thereof within three (3) Business Days following such execution, to Weil, Gotshal & Manges LLP ("**Weil**"), as counsel to the Company, and the Consenting Creditor Counsel, in which event (A) the transferee (including the Consenting Creditor transferee, if applicable) shall be deemed to be a Consenting Creditor hereunder with respect to such transferred Claims or Interest and (B) the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred Claims or Interests. Each Consenting Creditor agrees that any Transfer of any Claims or Interests that does not comply with the terms and procedures set forth herein shall be deemed void ab initio, and the Company and each other Consenting Creditor shall have the right to enforce the voiding of such Transfer. Notwithstanding anything to the contrary herein, a Consenting Creditor may Transfer its Claims or Interests to an entity that is acting in its capacity as a Qualified Marketmaker[1] without the requirement that the Qualified

[1] As used herein, the term "**Qualified Marketmaker**" means an entity that (i) holds itself out to the public or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers Claims against or Interests in the Company (or enter with customers into long and short positions in Claims against or Interests in the Company), in its capacity as a dealer or marketmaker in Claims against or Interests in the

Marketmaker become a Party; *provided, however*, that (i) such Qualified Marketmaker must Transfer such right, title or interest by five (5) Business Days prior to the Voting Deadline and (ii) the transferee of such Company Claims or Interests from the Qualified Marketmaker shall become a Consenting Creditor hereunder and comply in all respects with the terms of this Agreement (including executing and delivering a Joinder) and (iii) notwithstanding anything to the contrary in this Agreement, to the extent that a Consenting Creditor, acting in its capacity as a Qualified Marketmaker, acquires any Company Claims or Interests from a holder of such claims that is not a Consenting Creditor, such Qualified Marketmaker may Transfer such Company Claims or Interests without the requirement that the transferee be or become a Consenting Creditor.

(c) Additional Claims or Interests. To the extent any Consenting Creditor (i) acquires additional Claims or Interests or (ii) Transfers any Claims or Interests, then, in each case, each such Consenting Creditor shall promptly (in no event less than three (3) Business Days following such acquisition or transaction) notify Weil and Consenting Creditor Counsel and each such Consenting Creditor agrees that such additional Claims or Interests shall be subject to this Agreement, and that, for the duration of the Support Period, it shall vote (or cause to be voted) any such additional Claims or Interests entitled to vote on the Plan in a manner consistent with Section 3(a) hereof (and in the event the Solicitation has already commenced and the Voting Deadline has not elapsed, as soon as reasonably practicable following the acquisition of such Claims or Interests but in any event on or prior to the Voting Deadline).

(d) Forbearance. During the Support Period, each Consenting Creditor agrees, to forbear from the exercise of its rights (including any right of set-off) or remedies it may have under any of the Credit Agreements and any agreement contemplated thereby or executed in connection therewith, as applicable, and under applicable U.S. or non-U.S. law or otherwise, in each case, with respect to any breaches, defaults, events of defaults or potential defaults by the Company or any other Credit Party (as defined in the Credit Agreements). Each Consenting Creditor specifically agrees that this Agreement constitutes a direction to both Agents to refrain from exercising any remedy available or power conferred to either Agent against the Company or any of its assets except as necessary to effectuate the Restructuring (including the Plan, any Recognition Proceeding, the Pledge Enforcement or the Share and Intercompany Debt Transfer). For the avoidance of doubt, nothing in this paragraph (d) shall restrict or limit the Consenting Creditors or either the First Lien Agent or the Second Lien Agent from taking any action permitted or required to be taken hereunder for the purposes of the Plan, any Recognition Proceeding, the Pledge Enforcement (if applicable), or to effectuate the Share and Intercompany Debt Transfer.

4. **Agreements of the Company.**

(a) Covenants. Parent and each Company Party agrees that, for the duration of the Support Period, the Company shall:

(i) use commercially reasonable efforts to (A) pursue and consummate the Restructuring on the terms of, and in compliance with the Milestones set forth in, this Agreement, including by negotiating the Definitive Documents in good faith

Company and (ii) is, in fact, regularly in the business of making a market in claims against or interests in issuers or borrowers (including debt securities or other debt).

and (B) cooperate with the Consenting Creditors to obtain Bankruptcy Court approval of the Definitive Documents, as applicable, and to obtain any other required court or regulatory approvals in connection therewith;

(ii) not take any action, and not encourage any other person or entity to take any action, directly or indirectly that is inconsistent with, or is intended to interfere with the consummation of the Restructuring in accordance with this Agreement, or that would reasonably be expected to interfere with the acceptance or implementation of the Restructuring, this Agreement, or the Plan (except in accordance with clause (vii) below); *provided*, *however*, that the Company shall not be obligated to agree to any modification of any document that is inconsistent with the Restructuring Term Sheets or the Definitive Documents;

(iii) negotiate in good faith and use commercially reasonable efforts to execute and deliver any appropriate additional or alternative agreements to address any legal, financial, or structural impediment to the Restructuring or that are necessary to effectuate the Restructuring;

(iv) use commercially reasonable efforts to obtain those required court, regulatory, and/or third-party approvals required to consummate the Restructuring under applicable U.S. and non-U.S. law or otherwise;

(v) use commercially reasonable efforts to seek additional support for the Restructuring from other material stakeholders to the extent reasonably prudent;

(vi) not seek, solicit, or support any Alternative Transaction; *provided that*, if the Company receives a written or oral proposal or expression of interest regarding any Alternative Transaction, the Company shall notify (email being sufficient) Consenting Creditor Counsel of any such proposal or expression of interest, including the material terms thereof. For the avoidance of doubt, and notwithstanding any provisions to the contrary herein, in order to fulfil the fiduciary obligations of the officers of the Parent or any Company Party, the Company may receive proposals or offers for Alternative Transactions from other parties and provide due diligence and/or analyse and/or, subject to the Requisite Creditors' consent (which consent shall not be unreasonably withheld, conditioned, or delayed), negotiate, such Alternative Transactions without breaching or terminating this Agreement, and may terminate this Agreement in accordance with the terms hereof;

(vii) provide to the Consenting Creditor Counsel draft copies of all Definitive Documents and all material orders, motions or applications related to the Restructuring (including all "first day" and "second day" motions, applications and orders, the Plan, the Disclosure Statement, the Solicitation Materials, and a proposed Confirmation Order) that the Company intends to file with the Bankruptcy Court, in a Recognition Proceeding, or in connection with the Pledge Enforcement at least three (3) Business Days prior to the date when the Company intends to file any such document, motion, application, or proposed form of order

(provided that if delivery of such documents, motions, orders, or applications at least three (3) Business Days in advance is not reasonably practicable prior to filing, such document, motion, order, or application shall be delivered as soon as reasonably practicable prior to filing), and the Company shall consult in good faith with the Consenting Creditor Counsel regarding the form and substance of any such proposed filings;

(viii) subject to applicable professional responsibilities, in connection with the Chapter 11 Cases, any Recognition Proceeding, and the Pledge Enforcement, timely file a written objection to any motion or document filed by a third party seeking the entry of an order (A) directing the appointment of an examiner with expanded powers or a trustee, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, (C) dismissing any of the Chapter 11 Cases, (D) modifying or terminating the Company's exclusive right to file and/or solicit acceptances of a plan of reorganization, (E) enjoining the Pledge Enforcement (if applicable) or the Share and Intercompany Debt Transfer, (F) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or opposing the recognition of any order issued by the Bankruptcy Court, including the DIP Orders and the Confirmation Order, or (G) dismissing any Recognition Proceeding;

(ix) not modify the Plan, in whole or in part, in a manner that is not consistent with this Agreement in all material respects, and not file any motion, pleading, or Definitive Document with the Bankruptcy Court or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with this Agreement;

(x) operate its business in the ordinary course in a manner consistent with past practice in all material respects (other than any changes in operations (A) resulting from or relating to this Agreement or the filing or prosecution of the Chapter 11 Cases or (B) imposed by the Bankruptcy Court;

(xi) promptly provide written notice to the Consenting Creditors and the Consenting Creditor Advisors of (A) the occurrence, or failure to occur, of any event of which the Company has actual knowledge which occurrence or failure would be likely to cause any condition contained in this Agreement not to occur or become impossible to satisfy, (B) the receipt of any written notice from any governmental authority alleging that the consent of such party is or may be required in connection with the transactions contemplated by the Restructuring, or (C) receipt of any written notice of any proceeding commenced or, to the actual knowledge of the Company, threatened against the Company relating to or involving or otherwise affecting in any material respect the transactions contemplated by this Agreement or the Restructuring; and

(xii) not (A) increase the base salary, target bonus opportunity, or other benefits payable by the Company to any senior management employee without the consent of the Requisite Creditors or (B) make any amendment, waiver, supplement

or other modification to any senior management employment agreement or senior management employee retention, severance, incentive, or other compensation plan, agreement or arrangement, or enter into any new senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement or pay any amount contemplated by any currently existing senior management employment agreement or senior management employee retention, severance, incentive or other compensation plan, agreement or arrangement before the date on which such amount becomes due and payable pursuant to the terms of such agreements, arrangements or plans, as applicable, in each case, without the consent of the Requisite Creditors.

(b) Limited Waiver of Automatic Stay. The Company acknowledges and agrees and shall not dispute that, after the commencement of the Chapter 11 Cases, the giving of notice of termination of this Agreement by any Party solely in accordance with the terms of this Agreement shall not be a violation of the automatic stay of section 362 of the Bankruptcy Code or any other stay (and the Company hereby waives, to the fullest extent permitted by law, the applicability of the automatic stay or any other stay to the giving of such notice); *provided, however*, that nothing herein shall prejudice any Party's rights to argue that the giving of any notice of default or termination was not proper under the terms of this Agreement.

5. **Termination of Agreement.**

(a) This Agreement shall terminate three (3) Business Days following the delivery of written notice (in accordance with Section 20 hereof) from: (i) the Requisite First Lien Lenders to Parent and counsel to the Ad Hoc Crossholder Group at any time after the occurrence and during the continuance of any Creditor Termination Event (defined below); (ii) the Requisite Second Lien Lenders to Parent and counsel to the Ad Hoc First Lien Group at any time after the occurrence and during the continuance of any Creditor Termination Event; or (iii) Parent to the Consenting Creditors at any time after the occurrence and during the continuance of any Company Termination Event (defined below). Notwithstanding any provision to the contrary in this Section 5, no Party may exercise any of its respective termination rights as set forth herein if such Party has failed to perform or comply in all material respects with the terms and conditions of this Agreement (unless such failure to perform or comply arises as a result of another Party's actions or inactions in breach of this Agreement), with such failure to perform or comply causing, or resulting in, the occurrence of a Creditor Termination Event or Company Termination Event specified herein. This Agreement shall terminate on the Effective Date without any further required action or notice.

(b) A "Creditor Termination Event" shall mean any of the following:

(i) the breach by the Company of any of the undertakings, representations, warranties, or covenants of the Company set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 (as applicable);

(ii) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(iii) the failure of the Company to satisfy any Milestone as and when due;

(iv) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(v) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as a "foreign main proceeding" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order;

(vi) the Bankruptcy Court or any other court of competent jurisdiction enters a final order that grants relief terminating, annulling, or materially modifying the automatic stay (as set forth in section 362 of the Bankruptcy Code) or any other stay with regard to any material asset that, to the extent such relief were granted, would have a material adverse effect on the consummation of the Restructuring;

(vii) the Debtors withdraw the Plan or file any plan of reorganization or liquidation or disclosure statement that is inconsistent in any material respect with this Agreement, the Restructuring Term Sheets, or the Plan;

(viii) the Company files any document, motion, application, or adversary proceeding challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Consenting Creditors' Claims;

(ix) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Financing Documents;

(x) the Company files a document, motion, application, or adversary proceeding (or the Company supports any such document, motion, application, or adversary proceeding filed or commenced by any third party) (A) challenging the validity, enforceability, perfection, or priority of, or seeking the avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such

Indebtedness, the Credit Agreements or any Credit Document (as such term is defined in the Credit Agreements) or the prepetition liens securing the Indebtedness or (B) challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Indebtedness or asserting any other cause of action against the Consenting Creditors or with respect or relating to such Indebtedness or the prepetition liens securing the Indebtedness;

(xi) the Debtors lose the exclusive right to file a plan or plans of reorganization or to solicit acceptances thereof pursuant to section 1121 of the Bankruptcy Code;

(xii) the commencement of an involuntary case against the Company or the filing of an involuntary petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief in respect of the Company, or its debts, or of a substantial part of its assets, under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof), or if any court grants the relief sought in such involuntary proceeding; or

(xiii) without the prior consent of the Requisite Creditors, the Company (A) voluntarily commences any case or files any petition seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization or other relief under any federal, state, provincial, or foreign bankruptcy, insolvency, administrative receivership or similar law now or hereafter in effect except as contemplated by this Agreement (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (C) files an answer admitting the material allegations of a petition filed against it in any such proceeding; or (D) applies for or consents to the appointment of a receiver (other than in furtherance of the Pledge Enforcement and the Share and Intercompany Debt Transfer), administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official, trustee or examiner pursuant to section 1104 of the Bankruptcy Code in any of the Chapter 11 Cases, (E) makes a general assignment or arrangement for the benefit of creditors, or (F) takes any corporate action directly or indirectly authorizing any of the foregoing.

(c) A "Company Termination Event" shall mean any of the following:

(i) the breach by one or more of the Consenting Creditors of any of the undertakings, representations, warranties, or covenants of the Consenting Creditors set forth herein in any material respect that remains uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Creditors collectively hold less than 66⅔% of the

aggregate principal amount of each of the First Lien Debt and the Second Lien Debt then outstanding or comprise less than half in number of each of the First Lien Lenders and the Second Lien Lenders;

(ii) the board of directors, managers, members, or partners, as applicable, of Parent or any Company Party hereto reasonably determines in good faith, based upon the advice of counsel, that continued performance under this Agreement would be inconsistent with the exercise of its fiduciary duties under applicable law; *provided, however*, that Parent or such Company Party provides notice of such determination to the Consenting Creditors within five (5) Business Days after the date thereof;

(iii) if, as of 11:59 p.m. prevailing Eastern Time on June 13, 2020, the Support Effective Date has not occurred;

(iv) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of or prohibiting the Debtors from implementing the Plan, the Pledge Enforcement (if applicable), the Share and Intercompany Debt Transfer, any Recognition Proceeding, or the Restructuring, and such ruling, judgment, or order has not been stayed, reversed, or vacated within fifteen (15) days after such issuance;

(v) termination of the DIP Facility and the acceleration of any amounts outstanding thereunder in accordance with the terms of the DIP Credit Agreement;

(vi) if counsel to the Ad Hoc First Lien Group and/or counsel to the Ad Hoc Second Lien Group give notice of termination of this Agreement pursuant to this Section 5;

(vii) the Bankruptcy Court or any other court of competent jurisdiction enters an order (A) directing the appointment of a trustee, receiver or examiner with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases (other than an application for examinership in Ireland for the purpose of implementing the Restructuring, if ultimately determined necessary), (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (C) dismissing any of the Chapter 11 Cases;

(viii) the Canadian Court enters an order (A) dismissing the Canadian Recognition Proceeding, (B) denying recognition of the Chapter 11 Cases as "foreign main proceedings" or (C) denying recognition of any order issued by the Bankruptcy Court, including the DIP Orders or the Confirmation Order; or

(ix) the occurrence of the Outside Date if the Effective Date has not occurred.

Notwithstanding the foregoing, any of the dates or deadlines set forth in Section 5(b) and 5(c) may be extended by the mutual agreement of the Company and the Requisite Creditors.

In addition, notwithstanding anything set forth herein, the Requisite First Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting First Lien Lenders, may terminate this Agreement upon the breach by any Consenting Second Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting Second Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting Second Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the Second Lien Debt then outstanding or comprise less than half in number of the Second Lien Lenders; and *provided further* that the Requisite Second Lien Lenders (determined without including the holdings of any breaching Party in the numerator or the denominator), on behalf of the Consenting Second Lien Lenders, may terminate this Agreement upon the breach by any Consenting First Lien Lender of any of the undertakings, representations, warranties, or covenants of the Consenting First Lien Lenders set forth herein in any material respect that remain uncured for a period of five (5) Business Days after the receipt of written notice of such breach pursuant to this Section 5 and in accordance with Section 20 hereof (as applicable), but only if the non-breaching Consenting First Lien Lenders collectively hold less than 66⅔% of the aggregate principal amount of the First Lien Debt then outstanding or comprise less than half in number of the First Lien Lenders.

(d) Mutual Termination. This Agreement may be terminated by mutual agreement of the Company and the Requisite Creditors upon the receipt of written notice delivered in accordance with Section 20 hereof.

(e) Effect of Termination. Subject to the provisions contained in Section 5(a) and Section 13, upon the termination of this Agreement in accordance with this Section 5, this Agreement shall forthwith become null and void and of no further force or effect and each Party shall, except as provided otherwise in this Agreement, be immediately released from its liabilities, obligations, commitments, undertakings, and agreements under or related to this Agreement and shall have all the rights and remedies that it would have had and shall be entitled to take all actions, whether with respect to the Restructuring or otherwise, that it would have been entitled to take had it not entered into this Agreement, including all rights and remedies available to it under applicable law; *provided, however*, that in no event shall any such termination relieve a Party from liability for its breach or non-performance of any of its obligations hereunder prior to the date of such termination.

(f) If the Restructuring is not consummated, nothing herein shall be construed as a waiver by any Party of any or all of such Party's rights, and the Parties expressly reserve any and all of their respective rights. This Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce the Agreement's terms, and, if applicable, Federal Rule of Evidence 408 and any other applicable rules shall apply.

6. **Definitive Documents; Good Faith Cooperation; Further Assurances.**

Each Party hereby covenants and agrees to cooperate with each other in good faith in connection with, and shall exercise commercially reasonable efforts with respect to the pursuit, approval, negotiation, execution, delivery, implementation, and consummation of, the Plan, any Recognition Proceeding, the Pledge Enforcement, the Share and Intercompany Debt Transfer, and the Restructuring, as well as the negotiation, drafting, execution and delivery of the Definitive Documents. Furthermore, subject to the terms hereof, each of the Parties shall (i) take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, including making and filing any required regulatory filings, and (ii) refrain from taking any action that would frustrate the purposes and intent of this Agreement.

7. **Representations and Warranties.**

(a) Each Party, severally (and not jointly), represents and warrants to the other Parties that the following statements are true, correct, and complete as of the date hereof (or as of the date a Consenting Creditor becomes a party hereto):

(i) such Party is validly existing and in good standing under the laws of its jurisdiction of incorporation or organization, and has all requisite corporate, partnership, limited liability company, or similar authority to enter into this Agreement and carry out the transactions contemplated hereby and perform its obligations contemplated hereunder; and the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized by all necessary corporate, limited liability company, partnership or other similar action on its part;

(ii) the execution, delivery, and performance by such Party of this Agreement does not and will not (A) violate any material provision of law, rule, or regulation applicable to it or any of its subsidiaries or its charter or bylaws (or other similar governing documents) or those of any of its subsidiaries, or (B) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it or any of its subsidiaries is a party except, in the case of the Company, for the filing of the Chapter 11 Cases, the commencement of any Recognition Proceeding, and the consummation of the Pledge Enforcement and Share and Intercompany Debt Transfer;

(iii) the execution, delivery, and performance by such Party of this Agreement does not and will not require any material registration or filing with, consent or approval of, or notice to, or other action, with or by, any federal, state or governmental authority or regulatory body; and

(iv) this Agreement is the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other

similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability or a ruling of the Bankruptcy Court.

(b) Each Consenting Creditor severally (and not jointly) represents and warrants to the other Parties that, as of the date hereof (or as of the date such Consenting Creditor becomes a party hereto), such Consenting Creditor (i) is, or subject to clearance of trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement, was or will be the owner of the aggregate principal amount of Indebtedness and/or Interests set forth below its name on the signature page hereto (or below its name on the signature page of a Joinder Agreement for any Consenting Creditor that becomes a party hereto after the date hereof), free and clear of any restrictions on transfer, liens or options, warrants, purchase rights, contracts, commitments, claims, demands, and other encumbrances and does not own any other Claims or Interests (other than pursuant to any trades pending as of (or immediately prior to) the date of such Consenting Creditor becoming party to this Agreement), and/or (ii) has, with respect to the beneficial owners of such Claims or Interests, (A) sole investment or voting discretion with respect thereto, (B) full power and authority to vote on and consent to matters concerning such Claims or Interests to exchange, assign, and transfer such Claims or Interests, and (C) full power and authority to bind or act on the behalf of, such beneficial owners; *provided that* to the extent there are any discrepancies between the amounts set forth on a signature page hereto (or on a signature page to a Joinder Agreement) and the amounts set forth on the official registers maintained by the Agents, such Consenting Creditor and the Company shall work together in good faith to resolve such discrepancies with the Agents and to update, if necessary, the amounts set forth on the underlying signature page at issue.

8. **Disclosure; Publicity.**

The Company shall submit drafts to Consenting Creditor Counsel of any press releases regarding the Restructuring at least one (1) Business Day prior to making any such disclosure. Except as required by applicable law, rule, or regulation and notwithstanding any provision of any other agreement between the Company and such Consenting Creditor to the contrary, no Party or its advisors shall disclose to any Person (including, for the avoidance of doubt, any other Consenting Creditor), other than advisors to the Company and the Consenting Creditor Counsel, the principal amount or percentage of any Indebtedness of or Claims against the Company held by any Consenting Creditor without such Consenting Creditor's prior written consent; *provided, however*, that (a) if such disclosure is required by law, rule, or regulation, the disclosing Party shall, to the extent permitted by law, afford the relevant Consenting Creditor a reasonable opportunity to review and comment in advance of such disclosure and shall take commercially reasonable measures to limit such disclosure (the expense of which, if any, shall be borne by the relevant Consenting Creditor) and (b) the foregoing shall not prohibit the disclosure of the aggregate percentage or aggregate principal amount of Indebtedness collectively held by the Consenting Creditors. Notwithstanding the provisions in this Section 8, any Party may disclose, to the extent consented to in writing by a Consenting Creditor, such Consenting Creditor's individual holdings.

9. **Amendments and Waivers.**

(a) Other than as set forth in Section 9(b), this Agreement, including any exhibits or schedules hereto, may not be waived, modified, amended, or supplemented except with the written consent of the Company and the Requisite Creditors (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party).

(b) Notwithstanding Section 9(a):

(i) any waiver, modification, amendment, or supplement to this Section 9 shall require the written consent of all of the Parties;

(ii) any modification, amendment, or change to the definition of "Requisite Creditors" shall require the written consent of each Consenting Creditor and the Parent;

(iii) any modification, amendment, or change to the definition of "Requisite First Lien Creditors" shall require the written consent of each Consenting First Lien Creditor and the Parent;

(iv) any modification, amendment, or change to the definition of "Requisite Second Lien Creditors" shall require the written consent of each Consenting Second Lien Creditor and the Parent;

(v) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that contemplates a sale of the shares in the Parent, all or substantially all of the assets of the Company or a significant business line of the Company shall require the written consent of each Consenting Creditor; and

(vi) any change, modification, or amendment to this Agreement, any of the Restructuring Term Sheets, or any of the Definitive Documents that treats or affects any Consenting Creditor's Claims arising under the Indebtedness in a manner that is materially and adversely disproportionate, on an economic or non-economic basis, to the manner in which (A) if such Consenting Creditor is a Consenting First Lien Lender, the Consenting First Lien Lenders or (B) if such Consenting Creditor is a Consenting Second Lien Lender, the Consenting Second Lien Lenders, are treated (after taking into account each of the Consenting First Lien Lenders' and Consenting Second Lien Lenders', as applicable, respective holdings in the Company and the recoveries contemplated by the Reorganization Term Sheet (as in effect as of the Support Effective Date)) shall require the written consent of such materially adversely and disproportionately affected Consenting Creditor.

(c) In the event that (x) a Consenting Creditor referred to in Section 9(b)(v) or (y) a materially adversely and disproportionately affected Consenting Creditor referred to in

Section 9(b)(vi) (in each case, a "**Non-Consenting Creditor**") does not consent to a waiver, change, modification, or amendment to this Agreement requiring the consent of such Consenting Creditor, but such waiver, change, modification, or amendment receives the consent of Consenting Creditors owning at least 66⅔% of the outstanding principal amount of First Lien Debt or Second Lien Debt (whichever held by such Non-Consenting Creditor), this Agreement shall be deemed to have been terminated only as to such Non-Consenting Creditor, but this Agreement shall continue in full force and effect in respect to all other Consenting Creditors from time to time without the consent of any Consenting Creditors who have so consented.

10. **Effectiveness.**

This Agreement shall become effective and binding upon each Party upon the execution and delivery by such Party of an executed signature page hereto and shall become effective and binding on all Parties on the Support Effective Date; *provided, however*, that signature pages executed by Consenting Creditors shall be delivered to (i) other Consenting Creditors in a redacted form that removes such Consenting Creditors' account and/or fund name(s), holdings of Claims (including Indebtedness), and holdings of Interests and (ii) the Company, Weil, and Consenting Creditor Counsel in an unredacted form (to be held by Weil and Consenting Creditor Counsel on a professionals'-eyes-only basis).

11. **GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL.**

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

(b) Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any Party shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York (the "**New York Courts**") and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement or the Restructuring. Each of the Parties agrees not to commence any proceeding relating to this Agreement or the Restructuring except in the New York Courts, other than proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any New York Court. Each of the Parties further agrees that notice as provided in Section 20 shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any proceeding arising out of or relating to this Agreement or the Restructuring, (i) any claim that it is not personally subject to the jurisdiction of the New York Courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise) and (iii) that (A) the proceeding in any such court is brought in an inconvenient forum, (B) the venue of such proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Notwithstanding the foregoing, during the pendency of the Chapter 11 Cases, all proceedings contemplated by this Section 11(b) shall be brought in the Bankruptcy Court.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12. **Specific Performance/Remedies.**

It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief (including reasonable attorneys' fees and costs) as a remedy of any such breach, without the necessity of proving the inadequacy of money damages as a remedy, including an order of the Bankruptcy Court requiring any Party to comply promptly with any of its obligations hereunder. Each Party also agrees that it will not seek, and will waive any requirement for, the securing or posting of a bond in connection with any Party seeking or obtaining such relief.

13. **Survival.**

Notwithstanding the termination of this Agreement pursuant to Section 5 hereof, the agreements and obligations of the Parties in this Section 13 and Sections 5(e), 5(f), 8, 11, 12, 14, 15, 16, 17, 18, 19, 20, and 21 hereof (and any defined terms used in any such Sections) shall survive such termination and shall continue in full force and effect in accordance with the terms hereof; *provided, however*, that any liability of a Party for breach of the terms of this Agreement shall survive such termination.

14. **Headings.**

The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof or, for any purpose, be deemed a part of this Agreement.

15. **Successors and Assigns; Severability; Several Obligations.**

This Agreement is intended to bind and inure to the benefit of the Parties and their respective successors and permitted assigns; *provided, however*, that nothing contained in this Section 15 shall be deemed to permit Transfers of the Claims or Interests other than in accordance with the express terms of this Agreement. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, shall be held invalid or unenforceable in

whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision hereof and this Agreement shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible. The agreements, representations, and obligations of the Parties are, in all respects, ratable and several and neither joint nor joint and several.

16. **No Third-Party Beneficiaries.**

Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties (and their permitted successors and assigns) and no other Person shall be a third-party beneficiary hereof.

17. **Prior Negotiations; Entire Agreement.**

This Agreement, including the exhibits and schedules hereto (including the Restructuring Term Sheets), constitutes the entire agreement of the Parties and supersedes all other prior negotiations with respect to the subject matter hereof and thereof.

18. **Confidential Information.**

Any obligations the Company may have under or in connection with this Agreement to furnish Confidential Information to a Consenting Creditor shall be subject to such Consenting Creditor executing a confidentiality agreement with the Company in form and substance reasonably acceptable to the Company.

19. **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same agreement. Execution copies of this Agreement may be delivered by electronic mail, or otherwise, which shall be deemed to be an original for the purposes of this paragraph.

20. **Notices.**

All notices hereunder shall be deemed given if in writing and delivered, if contemporaneously sent by electronic mail, courier, or by registered or certified mail (return receipt requested) to the following addresses:

(1) If to the Company, to:

Pointwell Limited
2nd Floor 1-2 Victoria Buildings
Haddington Road, Dublin 4, Ireland D04XN32
Attention: Greg Porto
(Greg.Porto@skillsoft.com)

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Gary Holtzer, Esq.
(Gary.Holtzer@weil.com)
Andrew Wilkinson, Esq.
(Andrew.Wilkinson@weil.com)
Robert Lemons, Esq.
(robert.lemons@weil.com)
Katherine T. Lewis, Esq.
(katherine.lewis@weil.com)

(2) If to a member of the Ad Hoc First Lien Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Gibson Dunn & Crutcher LLP
1285 6th Avenue
New York, NY 10019

Attention: Scott J. Greenberg, Esq.
(sgreenberg@gibsondunn.com)
Steven A. Domanowski, Esq.
(sdomanowski@gibsondunn.com)
Matthew J. Williams, Esq.
(mjwilliams@gibsondunn.com)
Christina M. Brown, Esq.
(christina.brown@gibsondunn.com)

(3) If to a member of the Ad Hoc Crossholder Group (in its capacity as a Consenting Creditor), or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Milbank LLP
55 Hudson Yards
New York, NY 10001

Attention: Evan Fleck
(efleck@milbank.com)
Yushan Ng
(yng@milbank.com)
Sarah Levin
(slevin@milbank.com)
Benjamin Schak
(bschak@milbank.com)

Any notice, consent, or authorization under this Agreement may be delivered by electronic mail (with an email from counsel to the Company, counsel to the Ad Hoc First Lien Group (on behalf of the Requisite First Lien Lenders), and counsel to the Ad Hoc Crossholder Group (on behalf of the Requisite Second Lien Lenders) being sufficient with respect to each such Party). Any notice given by delivery, mail, or courier shall be effective when received. Any notice given by electronic mail shall be effective upon oral, machine, or electronic mail (as applicable) confirmation of transmission.

21. **No Solicitation; Representation by Counsel; Adequate Information.**

(a) This Agreement is not and shall not be deemed to be a solicitation of an offer to buy securities or a solicitation for votes in favor of the Plan in the Chapter 11 Cases. The acceptances of the Consenting Creditors with respect to the Plan will not be solicited until such Consenting Creditor has received the Disclosure Statement and, as applicable, related ballots and other Solicitation Materials. In addition, this Agreement does not constitute an offer to issue or sell securities to any Person or the solicitation of an offer to acquire or buy securities in any jurisdiction where such offer or solicitation would be unlawful.

(b) Each Party acknowledges that it has had an opportunity to receive information from the Company and that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law, or order, or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived.

(c) Each Consenting Creditor acknowledges, agrees, and represents to the other Parties that it (i) is an "accredited investor" as such term is defined in Rule 501 of Regulation D of the Securities Act, (ii) is a "qualified institutional buyer" as such term is defined in Rule 144A under the Securities Act or an institutional "Accredited Investor" as defined in Rule 501(a)(1), (2),

(3), (7), or (8) under the Securities Act, (iii) understands that if it is to acquire any securities, as defined in the Securities Act, pursuant to the Restructuring, such securities have not been and will not be registered under the Securities Act and that such securities are, to the extent not offered, solicited, or acquired pursuant to section 1145 of the Bankruptcy Code, being offered and sold pursuant to an exemption from registration contained in the Securities Act, based in part upon such Consenting Creditor's representations contained in this Agreement and cannot be sold unless subsequently registered under the Securities Act or an exemption from registration is available, and (iv) has such knowledge and experience in financial and business matters that such Consenting Creditor, as applicable, is capable of evaluating the merits and risks of the securities to be acquired by it (if any) pursuant to the Restructuring and understands and is able to bear any economic risks with such investment.

22. **Miscellaneous.**

When a reference is made in this Agreement to a Section, Exhibit, or Schedule, such reference shall be to a Section, Exhibit, or Schedule, respectively, of or attached to this Agreement unless otherwise indicated. Unless the context of this Agreement otherwise requires, (i) words using the singular or plural number also include the plural or singular number, respectively, (ii) the terms "hereof," "herein," "hereby," and derivative or similar words refer to this entire Agreement, (iii) the words "include," "includes," and "including" when used herein shall be deemed in each case to be followed by the words "without limitation," (iv) the word "or" shall not be exclusive and shall be read to mean "and/or" and (v) unless the context otherwise requires, the word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if".

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective duly authorized officers, solely in their respective capacity as officers of the undersigned and not in any other capacity, as of the date first set forth above.

PARENT:

POINTWELL LIMITED

By: _____

Name: Ronald Hovsepian
Title: Director

COMPANY PARTIES:

SSI INVESTMENTS I LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS II LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SSI INVESTMENTS III LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT IRELAND LIMITED

By: _____
Name: Bobby Jenkins
Title: Director

THIRDFORCE GROUP LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS IRELAND LEARNING LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

MINDLEADERS, INC.

By: _____
Name: Bobby Jenkins
Title: Director

SKILLSOFT CORPORATION

By: _____
Name: John Frederick
Title: Director

AMBER HOLDING INC.

By: _____
Name: Greg Porto
Title: Director

SUMTOTAL SYSTEMS LLC
by Amber Holding Inc., its sole member

By: _____
Name: Greg Porto
Title: Director

ACCERO, INC.

By: _____
Name: Greg Porto
Title: Director

CYBERSHIFT HOLDINGS, INC.

By: _____

Name: Greg Porto
Title: Director

CYBERSHIFT, INC.

By: _____

Name: Greg Porto
Title: Director

SKILLSOFT U.K. LIMITED

By: _____

Name: Bobby Jenkins
Title: Director

SKILLSOFT CANADA, LTD.

By: _____

Name: Bobb Jenkins
Title: Director

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Patrick Hutchines Jens Hoellermann

Title: Managers

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

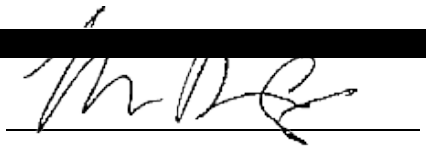
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: DocuSigned by: Eric Larsson 97CBAED964A54A3...
(for Alcentra Limited as investment manager)

Name: Eric Larsson

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

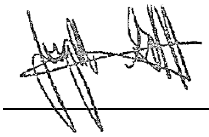
Notice Address: Alcentra Limited, 160 Queen Victoria Street, London EC4V 4LA

Fax: _____
Attention: Amos Ouattara / Christopher Schubert___
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

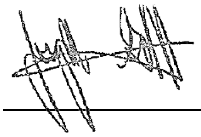
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

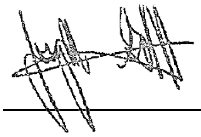
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

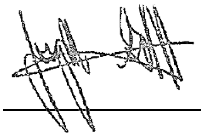
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

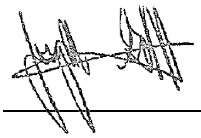
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

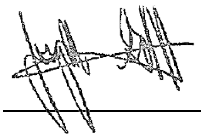
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

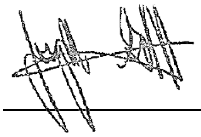
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

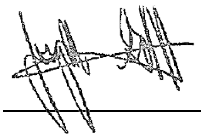
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

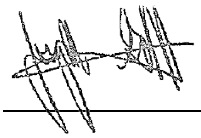
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo TRF MP Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

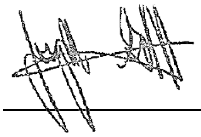
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its portfolio manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

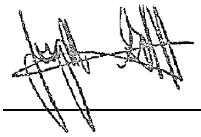
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC, Management Series 2,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

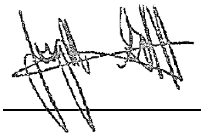
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

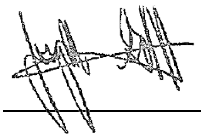
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

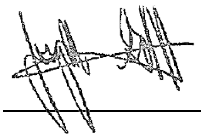
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

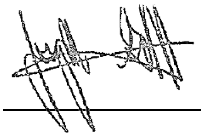
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

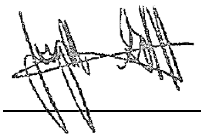
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its asset manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

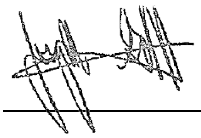
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

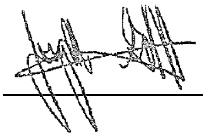
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

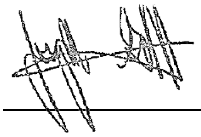
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

Benefit Street Partners LLC, on behalf of certain managed funds and accounts

By: 

Name: Alex McMillan

Title: Chief Compliance Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $0

Principal Amount of the Second Lien Debt: $0

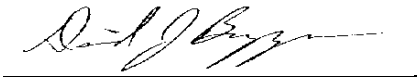
Interests (please describe): n/a

Notice Address:
9 W 57th St, Suite 4920
New York, NY 10019

Fax: n/a
Attention: Alex McMillan
Email: a.mcmillan@benefitstreetpartners.com and j.rodbard@benefitstreetpartners.com

CONSENTING CREDITOR

DDJ Capital Management, LLC,
in its capacity on behalf of the
Consenting Creditors that it manages and/or advises

By: 

Name: David J. Breazzano

Title: President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

DDJ Capital Management, LLC
130 Turner Street
Building #3, Suite 600
Waltham, MA 02453

Fax: (781) 419-9189
Attention: Legal Department
Email: legal@ddjcap.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Sub-Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Calvert Research and Management

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
Portfolio Manager

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
As Investment Advisor

By:

Name: Michael B. Botthof

Title: Michael B. Botthof
Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]

By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: _ Michael B. Botthof

Name: _ Michael B. Botthof

Title: _ Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Boston Management and Research
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Investment Advisor

By:

Name: Michael B. Botthof

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Manager

By: _____

Name: Ian Johnston

Title: Vice President

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Judith MacDonald

Name: Judith MacDonald

Title: Authorized Signatory

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt:

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as General Partner

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]
By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

[redacted]

By: Symphony Asset Management LLC, as Investment Advisor

By: Judith MacDonald

Name: Judith MacDonald

Title: General Counsel

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: [redacted]

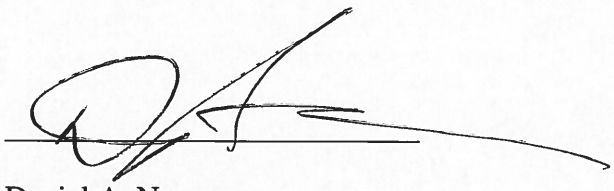
Interests (please describe): _____

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

VOYA INVESTMENT MANAGEMENT CO. LLC
on its own behalf and, as applicable, on behalf of its affiliates and managed or sub-advised funds and accounts

By: 

Name: Daniel A. Norman

Title: Senior Managing Director

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $n/a

Principal Amount of the Second Lien Debt: $n/a

Interests (please describe): n/a

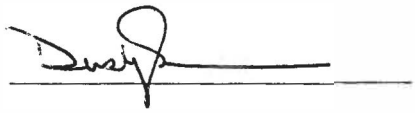
Notice Address:

Voya Investment Management
7337 East Doubletree Ranch Road
Scottsdale, Arizona, USA 85258

Fax: (480) 477-2607
Attention: Jake Jamison, Vice President for Legal Affairs
Email: jake.jamison@voya.com

CONSENTING CREDITOR

Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolvi [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Kapitalforeningen Investin Pro - Lodbrok Select Opportunities

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loan [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

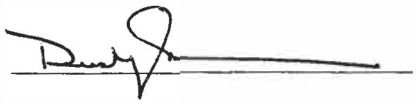
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok European Credit Opportunities Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: $[redacted]

Principal Amount of the First Lien Revolving Loans: $[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Funding Sàrl

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Deb [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

MAP 512 Sub Trust of LMA Ireland

By: _____

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Lo[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Mercer QIF Fund PLC - Mercer Investment Fund 1

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

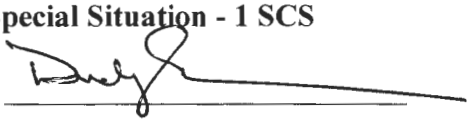
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 1 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loa[redacted]

Principal Amount of the Second Lien Debt: [redacted]

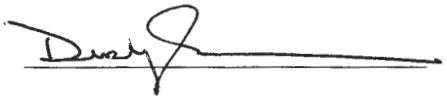
Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 2 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

Lodbrok Special Situation - 3 SCS

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

CRF2 SA

By: _____

Name: Quentin Leveque

Title: Director

By: _____

Name: Besar Muhameti

Title: Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien De [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EMPIRE CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

EAD CREDIT INVESTMENTS I SARL

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

CRF3 Investments I S.à r.l.

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving L[redacted]

Principal Amount of the Second Lien Debt: $ [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

NORTH HAVEN CREDIT PARTNERS II L.P.
By: MS Credit Partners II GP L.P., its general partner
By: MS Credit Partners II GP Inc., its general partner

By: 

Name: Ashwin Krishnan

Title: Managing Director

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: +1 212 507 4216
Attention: Ashwin Krishnan
Email: Ashwin.krishnan@morganstanley.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI GLOBAL ASSET ALLOCATION PRIVATE POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loa[redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH YIELD BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loan [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE GLOBAL INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE DIVERSIFIED YIELD CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CI U.S. INCOME US$ POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SENTRY GLOBAL HIGH YIELD FIXED INCOME PRIVATE TRUST

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE INCOME & GROWTH FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE HIGH INCOME FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE FLOATING RATE INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

SIGNATURE CORPORATE BOND FUND

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

CANADIAN FIXED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME POOL

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

ENHANCED INCOME CORPORATE CLASS

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Principal Amount of the First Lien Term Loans: [redacted]

Principal Amount of the First Lien Revolving Loans: [redacted]

Principal Amount of the Second Lien Debt: [redacted]

Interests (please describe): _____

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

EXHIBIT A

AD HOC CROSSHOLDER GROUP

1. Lodbrok European Credit Opportunities Sàrl
2. Crown Managed Accounts SPC - Crown/Lodbrok Segregated Portfolio
3. Kapitalforeningen Investin Pro - Lodbrok Select Opportunities
4. MAP 512 Sub Trust of LMA Ireland
5. Mercer QIF Fund PLC - Mercer Investment Fund 1
6. Lodbrok Special Situation - 1 SCS
7. Lodbrok Special Situation - 2 SCS
8. Lodbrok Special Situation - 3 SCS
9. Lodbrok Funding Sàrl
10. CRF2 SA
11. CRF3 Investments I S.à r.l.
12. EAD CREDIT INVESTMENTS I SARL
13. EMPIRE CREDIT INVESTMENTS I SARL
14. Enhanced Income Corporate Class
15. Enhanced Income Pool
16. Canadian Fixed Income Pool
17. Signature Corporate Bond Fund
18. Signature Floating Rate Income Pool
19. Signature High Income Fund
20. Signature Income & Growth Fund
21. Sentry Global High Yield Fixed Income Private Trust
22. CI US Income $US Pool
23. Signature Diversified Yield Corporate Class
24. Signature Global Income & Growth Fund
25. Signature High Yield Bond Fund
26. CI Global Asset Allocation Private Pool
27. CI Income Fund
28. Signature Diversified Yield Fund
29. NORTH HAVEN CREDIT PARTNERS II L.P.

EXHIBIT B

AD HOC FIRST LIEN GROUP

See 2019 Statement filed by Gibson, Dunn & Crutcher LLP

EXHIBIT C

DIP AND EXIT FACILITY TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for DIP and Exit Financing Facilities
Summary of Terms and Conditions

June 12, 2020

This DIP and Exit Facility Term Sheet[1] sets forth the principal terms of the DIP Facility and the Exit Credit Facility.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Company Parties set forth on Schedule 1 to the Reorganization Term Sheet.

Without limiting the generality of the foregoing, this DIP and Exit Facility Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This DIP and Exit Facility Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this DIP and Exit Facility Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this DIP and Exit Facility Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS DIP AND EXIT FACILITY TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Summary	▪ $60,000,000 delayed draw term loan facility to be funded in escrow (subject to withdrawal conditions described below) ► Backstopped by certain members of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (collectively, the "**DIP Backstop Parties**"); provided that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group ► After the funding date, the DIP Facility will by syndicated to all First Lien Lenders on a pro rata basis ▪ "**Borrower**" to be Skillsoft Corporation ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the First Lien Credit Agreement, provided that the Evergreen Skills Entities shall not be Credit Parties	▪ $110,000,000 super senior term loan facility under Exit Credit Agreement ► $60,000,000 rolled from DIP Facility ▪ "**Borrowers**" to be Newco Borrower, Skillsoft Corporation and such other Credit Parties to be agreed ▪ "**Credit Parties**" and "**Administrative Agent**" to be the same as those under the DIP Facility, plus Newco Borrower and Newco Parent and any additional foreign entities required pursuant to the terms of the Exit Credit Agreement ▪ Backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**"); provided, that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by or participated to all members of each such group	▪ $410,000,000 first lien, second-out term loan facility under Exit Credit Agreement ▪ Borrowers, Credit Parties and Administrative Agent to be the same as those under the New First Out Term Loan Facility
Maturity	▪ Earlier of (i) 3 months after the Petition Date, subject to one 1-month extension at the sole discretion of DIP Lenders holding, as of the date of determination, at least a majority of the aggregate principal amount of loans outstanding under the DIP Facility (the "**Requisite DIP Lenders**"), (ii) conversion or dismissal of the Chapter 11 Cases, (iii) acceleration, (iv) sale of all or substantially all assets and (v) the Effective Date	▪ Earlier of (i) December 2024 and (ii) acceleration	▪ Earlier of (i) April 2025 and (ii) acceleration
Carve-Out	▪ Usual and customary professional fee carve-out for DIP facilities of this type to be mutually agreed (the "**Carve-Out**")	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Availability	▪ $25,000,000 available upon entry of the Interim DIP Order ("**Initial Availability**") ▪ Remaining $25,000,000 available upon entry of Final Order ("**Additional Availability**")	▪ n.a.	▪ n.a.
Use of Proceeds	▪ Working capital, general corporate purposes and chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, and providing adequate protection in each case solely in accordance with a budget in form and substance acceptable to the DIP Lenders (the "**DIP Budget**")	▪ Working capital, general corporate purposes, any DIP Facility paydown and chapter 11 emergence costs	▪ n.a.
Security & Ranking	As set forth in the Bankruptcy Code, and subject to the Carve-Out, the DIP Facility shall be entitled to: ▪ Priming, perfected first priority DIP liens on all Collateral of the Debtors (as defined in the First Lien Credit Agreement) securing the First Lien Debt ▪ Perfected first priority DIP liens on all property of the Debtors not subject to valid, perfected and non-avoidable liens as of the commencement of the Chapter 11 Cases and the proceeds thereof ▪ Perfected junior DIP liens on all property of the Debtors that is subject to valid, perfected and non-avoidable liens in existence at the time of the commencement of the Chapter 11 Cases or to valid and non-avoidable liens in existence at the time of such commencement (other than liens securing the First Lien Debt) ▪ Super-priority, administrative claim status	▪ Perfected first priority liens on all Collateral (as defined in the First Lien Credit Agreement) ▪ Perfected first priority liens on all assets of the Credit Parties, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Perfected first priority liens on 100% of equity in/assets of foreign subsidiaries, subject to usual and customary exceptions for facilities of this type to be agreed ▪ Other standard and customary assets to be included in collateral package	▪ Same collateral package as the New First Out Term Loan Facility (such collateral package, the "**Exit Facility Collateral**") ▪ The New Second Out Term Loans shall be junior in all respects to the New First Out Term Loans with respect to the Exit Facility Collateral; <u>provided</u> that both the New First Out Term Loan Facility and the New Second Out Term Loan Facility shall be secured by a first lien on the Exit Facility Collateral
Economics	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%	▪ Coupon: L+750 bps ▪ LIBOR floor: 1.00%

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Commitment payment: 300 bps earned and payable in cash to all DIP Lenders on the funding date	▪ Commitment payment: (i) with respect to the new money portion of the Exit Credit Facility, 300 bps payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) and (ii) with respect to the rolled portion of the Exit Credit Facility, 200 bps earned and payable in cash to all Exit Facility Lenders (including Exit Backstop Parties) on the funding date to occur on the Effective Date	▪ n.a.
	▪ Seasoning/fronting fees to be paid by the Company	▪ Seasoning/fronting fees to be paid by the Company	▪ n.a.
	▪ Backstop payment: 250 bps earned and payable in cash to the DIP Backstop Parties on the funding date	▪ Backstop payment: (i) with respect to the new money portion of the Exit Credit Facility, 250 bps earned and payable in cash to the Exit Backstop Parties and (ii) with respect to the rolled portion of the Exit Credit Facility, 150 bps earned and payable in cash to the Exit Backstop Parties on the funding date to occur on the Effective Date	▪ n.a.
Amortization	▪ n.a.	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022	▪ 1% per annum amortization payments, payable on a quarterly basis, with the first payment due on April 30, 2021 ▪ Beginning on April 30, 2022, step up to 2% per annum amortization payments, payable on a quarterly basis with the first such payment due on April 30, 2022
Documentation	▪ The definitive documentation for the DIP Facility (the "**DIP Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ The definitive documentation for the Exit Credit Facility (the "**Exit Facility Documentation**") shall be negotiated in each case in form and substance reasonably acceptable to the DIP Lenders (collectively, the "**Documentation Principles**")	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
Reporting	▪ Usual and customary for facilities of this type and subject to the Documentation Principles ▪ Bi-Weekly cash flow reporting, including Bi-weekly variance reporting in the same format as the DIP Budget with written discussion of variances (including but not limited to whether variances are temporary or permanent)	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, and shall include: ► Annual budget ► Monthly reporting ► Quarterly and annual financials	▪ Same as New First Out Term Loan Facility
Withdrawal	Conditions to a withdrawal shall include: ▪ Bringdown of representations and warranties in all material respects ▪ No Default or Event of Default under the DIP Credit Agreement ▪ Customary representation related to effectiveness of DIP Order ▪ The RSA shall be in full force and effect ▪ Cap on availability until entry of Final Order ▪ Compliance with DIP Budget (subject to permitted variance) ▪ Delivery of Withdrawal Notice ▪ Satisfaction of Financial Covenants	▪ n/a	▪ n/a
Mandatory Prepayments	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ No ECF sweep ▪ Other mandatory prepayments usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Financial Covenants	▪ Receipts and Disbursements Variance Test with a 15% cushion on a cumulative basis (disbursements to exclude professional fees), tested bi-weekly on a rolling 4-week basis commencing on the third week after the Petition Date ▪ Minimum liquidity (to be defined as mutually agreed) in an amount to be agreed	▪ Maximum leverage ▪ First test on January 31, 2022, quarterly testing thereafter ▪ Initial 6.00x covenant level with 0.5x step downs semi-annually until 4.50x after which the leverage covenant will remain flat	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Cap on cash maintained by non-Credit Parties and/or non-Debtors in an amount to be agreed	▪ EBITDA definition to exclude "pro forma" and similar add-backs except for cost savings programs already initiated (capped at 25% of Cash EBITDA) and restructuring costs related to the Restructuring	
Affirmative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Negative Covenants	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Adequate Protection	▪ Adequate protection liens on all DIP Collateral (including avoidance action proceeds) ▪ Adequate protection 507(b) super priority claim ▪ Current cash payment of reasonable and documented professional fees and expenses for the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ All information and reporting rights set forth in the DIP Facility	▪ n.a.	▪ n.a.
Events of Default	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Milestones	▪ Entry of Disclosure Statement and Plan (T+1 Business Day) ▪ Entry of Interim DIP Order (T+3 Business Days) ▪ Entry of Final DIP Order (T+25 Calendar Days) ▪ Entry of Confirmation Order (T+60 Calendar Days) ▪ Effective Date (T+80 Calendar Days) ▪ Canadian Borrower commences Canadian Recognition Proceeding (4 Business Days	▪ n.a.	▪ n.a.

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	following entry of Interim DIP Order and Prepack Scheduling Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Final DIP Recognition Order (4 Business Days following the entry of the Final DIP Order) ▪ Canadian Borrower files motion in the Canadian Recognition Proceeding seeking entry of the Canadian Plan Confirmation Recognition Order (4 Business Days following the entry of the Confirmation Order)		
Conditions Precedent	Usual and customary for DIP facilities of this type and subject to the Documentation Principles, including without limitation: ▪ Delivery of acceptable DIP Budget ▪ Payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group ▪ Entry of Interim DIP Order followed by entry of Final Order ▪ Execution of DIP Credit Agreement and other DIP Documents	▪ Usual and customary for facilities of this type and subject to the Documentation Principles, including, payment of accrued reasonable and documented fees and expenses of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group	▪ Usual and customary for facilities of this type and subject to the Documentation Principles
Consent to Use Cash Collateral	▪ Prepetition First Lien Agent, Prepetition First Lien Lenders party to the RSA, Prepetition Second Lien Agent and Prepetition Second Lien Lenders party to the RSA shall consent to Debtors' use of all cash as cash collateral in accordance with use of proceeds and Approved DIP Budget	▪ n.a.	▪ n.a.
Tax	▪ Usual and customary for DIP facilities of this type and subject to the Documentation Principles	▪ Usual and customary for facilities of this type and subject to the Documentation Principles	▪ Same as New First Out Term Loan Facility
Other Terms & Conditions	▪ Existing AR Facility to remain in place on terms and conditions to be mutually agreed	▪ Commercially reasonable efforts to obtain credit rating from both Moody's and S&P (i) prior to the Effective Date and (ii) if not	▪ Same as New First Out Term Loan Facility

	DIP Facility	New First Out Term Loan Facility	New Second Out Term Loan Facility
	▪ Waiver of section 506(c), section 552(b) equity of the cases exception and marshalling, subject to entry of a final DIP order ▪ Prior to the earlier to occur of (i) 30 days after the Petition Date and (ii) the entry of the Final DIP Order, the Company to use commercially reasonable efforts to obtain private credit ratings of the DIP Facility from both Moody's and S&P ▪ Upon Event of Default of the DIP Facility, Requisite DIP Lenders may direct the Administrative Agent to exercise remedies	obtained prior to the Effective Date, within 30 days post-close ▪ AR Facility in place on terms and conditions acceptable to Exit Facility Lenders	

EXHIBIT D

REORGANIZATION TERM SHEET

POINTWELL LIMITED, *ET AL.*

Term Sheet for Reorganization Transaction
Summary of Terms and Conditions

June 12, 2020

This Reorganization Term Sheet[1] sets forth the principal terms of the Restructuring and certain related transactions concerning the Company.

Subject in all respects to the terms of the Restructuring Support Agreement, the Restructuring will be consummated through the Plan in the Chapter 11 Cases commenced by each of the Parent and Company Parties set forth on Schedule 1 (each, a "**Debtor**" and, collectively, the "**Debtors**").

Without limiting the generality of the foregoing, this Reorganization Term Sheet and the undertakings contemplated herein are subject in all respects to the negotiation, execution, and delivery of the Definitive Documents, as provided in the Restructuring Support Agreement. This Reorganization Term Sheet is proffered in the nature of a settlement proposal in furtherance of settlement discussions. Accordingly, this Reorganization Term Sheet and the information contained herein are entitled to protection from any use or disclosure to any party or person pursuant to Rule 408 of the Federal Rules of Evidence and any other applicable rule, statute, or doctrine of similar import protecting the use or disclosure of confidential settlement discussions. Until publicly disclosed upon the prior written agreement of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group, this Reorganization Term Sheet shall remain strictly confidential and may not be shared with any other party or person (other than members of the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group) without the consent of each of the Parent, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group.

The regulatory, tax, accounting, and other legal and financial matters and effects related to the Restructuring or any related restructuring or similar transaction have not, as of the date hereof, been fully evaluated, and such evaluation may affect the terms and structure of the Restructuring. Any such evaluation may affect the terms and structure of the Restructuring and/or certain related transactions.

THIS REORGANIZATION TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH AN OFFER OR SOLICITATION, IF ANY, WILL ONLY BE MADE IN COMPLIANCE WITH APPLICABLE LAW.

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

Summary of Prepetition Obligations and Interests	
First Lien Revolving Credit Facility	"**First Lien Revolving Credit Facility**" means the revolving credit facility provided under the First Lien Credit Agreement. As of April 30, 2020, the principal obligations outstanding under the First Lien Revolving Credit Facility (collectively, the "**First Lien Revolving Credit Debt**") totaled approximately $80 million. "**First Lien Revolving Credit Claims**" means all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Revolving Credit Facility as of the Petition Date.
First Lien Term Loan Facility	"**First Lien Term Loan Facility**" means the term loan facility provided under the First Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the First Lien Term Loan Facility totaled approximately $1,290 million (collectively, the "**First Lien Term Loan Debt**" and, together with the First Lien Revolving Credit Debt, the "**First Lien Debt**"). "**First Lien Term Loan Claims**" (together with the First Lien Revolving Credit Claims, the "**First Lien Debt Claims**") shall refer to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the First Lien Term Loan Facility as of the Petition Date.
Second Lien Term Loan Facility	"**Second Lien Term Loan Facility**" means the term loan facility provided under the Second Lien Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Second Lien Term Loan Facility totaled approximately $670 million (collectively, the "**Second Lien Debt**"). "**Second Lien Debt Claims**" refers to all claims (including any accrued and unpaid interest, fees, and/or deficiency claims) arising from the Second Lien Term Loan Facility as of the Petition Date.
Existing AR Facility	"**Existing AR Facility**" means the senior secured credit facility comprised of a $75 million Class A revolving line of credit (the "**Class A Tranche**") and a $15 million Class B revolving line credit (the "**Class B Tranche**") provided under the Existing AR Credit Agreement. As of April 30, 2020, principal obligations outstanding under the Class A Tranche totaled approximately $63.1 million and the principal obligations outstanding under the Class B Tranche totaled approximately $14.62 million.
General Unsecured Claims	"**General Unsecured Claims**" means any prepetition, general unsecured claim against one or more Debtors, *excluding* claims held by one or more Debtors, claims held by one or more non-Debtor affiliates of Parent (including claims held by the Evergreen Skills Entities (defined below) and/or the Sponsor or its affiliates), the First Lien Debt Claims, and the Second Lien Debt Claims.
Intercompany Claims	"**Intercompany Claims**" means any prepetition claim against one or more Debtors held by another Debtor or by a non-Debtor affiliate of Parent, including any claims held by Holdings, the Lux Borrower, Evergreen Skills Holding Lux, or Evergreen Skills Top Holding Lux (the preceding four entities, the "**Evergreen Skills Entities**"), other than the Pointwell Intercompany Debt (defined below).

Summary of Prepetition Obligations and Interests	
Pointwell Intercompany Debt	"**Pointwell Intercompany Debt**" means certain intercompany obligations owed to the Lux Borrower by the Parent which have been pledged to the First Lien Lenders pursuant (x) the First Lien Share Charge and (y) that certain First Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the First Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the First Lien Agent and the Second Lien Lenders pursuant to (x) the Second Lien Share Charge and (y) that certain Second Lien Security Agreement, dated as of April 28, 2014, by and between Holdings, the Second Lien Borrowers, certain subsidiaries of Holdings party thereto as grantors and the Second Lien Agent.
Intercompany Interests	"**Intercompany Interests**" means any prepetition Interest in a Debtor held by another Debtor or non-Debtor affiliate of Parent (excluding the Evergreen Skills Entities and the Sponsor).
Existing Parent Equity Interests	"**Existing Parent Equity Interests**" means the equity securities of Parent, consisting of any common stock, preferred stock, warrants, or other ownership interest of or in Parent, including those interests held directly or indirectly by the Evergreen Skills Entities or the Sponsor.
Subordinated Claims	"**Subordinated Claims**" means any claim subject to subordination under section 510(b) of the Bankruptcy Code, including without limitation all accrued and unpaid management fees and other amounts owed to the Sponsor.
Overview of the Restructuring	
Implementation of the Restructuring	The Restructuring shall be implemented with the support of the Ad Hoc First Lien Group, the Ad Hoc Crossholder Group, the Evergreen Skills Entities, and the Sponsor through the Chapter 11 Cases pursuant to the Plan. Each of the Parent and the Company Parties shall commence the Chapter 11 Cases and shall use commercially reasonable efforts to confirm and consummate the Plan, which shall be consistent in all material respects with this Reorganization Term Sheet and the Restructuring Support Agreement and/or otherwise in form and substance reasonably acceptable to the Company and the Requisite Creditors. The Plan will provide creditors with the distributions reflected below. The Canadian Borrower shall commence the Canadian Recognition Proceeding seeking an order or orders recognizing the Chapter 11 Cases as a "foreign main proceeding" and granting related relief, including, without limitation, recognizing and giving full force and effect to the orders of the Bankruptcy Court approving the DIP Facility and confirming the Plan (such order of the Canadian Court recognizing the Bankruptcy Court order confirming the Plan, the "**Canadian Plan Confirmation Recognition Order**"). The granting of the Canadian Plan Confirmation Recognition Order shall be a condition precedent to the effectiveness of the Plan. If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, the Consenting First Lien Lenders (constituting the Required Lenders under the First Lien Credit Agreement) shall promptly instruct the First Lien Agent to effect the Pledge Enforcement and take such other steps as may be necessary or desirable (including, but not limited to, voting (or exercising any powers or rights available to it) in favor of any matter) to support, facilitate, implement or otherwise give effect to the Pledge Enforcement, including entry into Pledge Enforcement Documents.

Summary of Prepetition Obligations and Interests	
Consideration for Distribution	The aggregate consideration that will be distributed pursuant to the Plan on the Effective Date will include, as and to the extent applicable: (i) the New Second Out Term Loan Facility (defined below); (ii) the Newco Equity (defined below); and (iii) the Warrants (defined below).
DIP Facility; Use of Cash Collateral	The Restructuring will be financed by (i) the consensual use of cash collateral and (ii) an up to $50 million DIP Facility to be provided by the DIP Lenders, subject to the terms and conditions set forth in the DIP and Exit Facility Term Sheet. Subject to the terms of the DIP and Exit Facility Term Sheet, the DIP Facility shall be used to fund (i) the operations of the Debtors, as debtors and debtors in possession in the Chapter 11 Cases, including the Debtors' working capital and general corporate purposes, as well as the payment of professional fees and expenses and required fees and debt service on the DIP Facility, and (ii) the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital with proceeds from the DIP Facility.
New First Out Term Loan Facility	"**New First Out Term Loan Facility**" means a new "first out" term loan facility (the loans thereunder, the "**New First Out Term Loans**") in an aggregate principal amount not to exceed (i) the aggregate principal amount outstanding under the DIP Facility as of [ten] days prior to the Effective Date (the "**Converted DIP Facility Loans**") (which Converted DIP Facility Loans shall be converted into New First Out Term Loans) and (ii) a cash amount equal to $90 million less the Converted DIP Facility Loans (collectively, the "**New First Out Term Loan Amount**" and the commitment to provide such amount, the "**New First Out Term Loan Commitment**"). The New First Out Term Loan Facility shall be made available to all holders of First Lien Debt Claims in accordance with the DIP and Exit Facility Term Sheet; *provided that* the New First Out Term Loan Facility shall be backstopped by certain members of Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (solely in their capacity as First Lien Lenders) (the "**Exit Backstop Parties**") (it being understood and agreed that the backstop commitment of each of the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group shall be proportional to the First Lien Debt Claims held by all members of each such group). The New First Out Term Loan Facility shall be documented in a credit agreement which shall be in form and substance consistent with the terms and conditions set forth in the DIP and Exit Facility Term Sheet. The New First Out Term Loan Facility shall be senior in respect of payment to the New Second Out Term Loan Facility (defined below).
New Second Out Term Loan Facility	"**New Second Out Term Loan Facility**" means a new "second out" term loan facility (the loans thereunder, the "**New Second Out Term Loans**") in an aggregate principal amount of $410 million (the "**New Second Out Term Loan Amount**") that shall be documented in the Exit Credit Agreement. All claims and liens pursuant to the New Second Out Term Loan Facility shall be junior in all respects to the claims and liens pursuant to the New First Out Term Loan Facility; provided, that the New First Out Term Loan Facility and New Second Out Term Loan Facility shall be secured by a first lien on substantially all of the assets of the Credit Parties (as defined in the DIP and Exit Facility Term Sheet).
Exit AR Facility	"**Exit AR Facility**" means an accounts receivables facility in a principal amount up to $75 million to be provided under the Exit AR Credit Agreement.

Summary of Prepetition Obligations and Interests	
	The Exit AR Facility shall be secured on the same basis as the Existing AR Facility. The terms of the Exit AR Credit Agreement shall be materially consistent with the Existing AR Credit Agreement (provided that the provisions related to Class B Loans (as defined in the Existing AR Credit Agreement) may be modified to remove the Class B Tranche or replace the Class B Lender (as defined in the Existing AR Credit Agreement)) and otherwise be reasonably acceptable to the Company and the Requisite Creditors. The Exit AR Facility shall mature December 2024 or later.
Newco Equity	"**Newco Equity**" has the meaning ascribed to it in the Restructuring Support Agreement.
Tranche A Warrants	"**Tranche A Warrants**" means warrants representing the right to acquire 5.0% of the Newco Equity issued and outstanding immediately as of the Effective Date, subject to dilution by the Incentive Plans (defined below), which shall be documented pursuant to a "**Warrant Agreement**," which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Tranche B Warrants	"**Tranche B Warrants**" (together with the Tranche B Warrants, the "**Warrants**") means warrants representing the right to acquire 10.0% of the Newco Equity issued and outstanding as of the Effective Date, subject to dilution by the Incentive Plans, which shall be documented under the Warrant Agreement, which shall conform in all material respects to the terms and conditions set forth in the Warrant Term Sheet.
Classification and Treatment of Claims and Interests	
Administrative Expense Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all administrative, priority, and priority tax claims (excluding DIP Facility Claims and Professional Fee Claims) (collectively, the "**Administrative Expense Claims**") shall be paid in full in cash.
Professional Fee Claims Unimpaired; Unclassified and Non-Voting	On the Effective Date, or as soon as reasonably practicable thereafter, all holders of claims against a Debtor for professional services rendered or costs incurred on or after the Petition Date and through and including the Effective Date by professional persons retained by the Debtors or any statutory committee appointed in the Chapter 11 Cases pursuant to sections 327, 328, 329, 330, 331, 363, or 1103 of the Bankruptcy Code in the Chapter 11 Cases (the "**Professional Fee Claims**") shall receive, in full and final satisfaction, release, and discharge of such claim, cash in an amount equal to the allowed amount of such Professional Fee Claim.
DIP Facility Claims Unimpaired, Unclassified and Non-Voting	On the Effective Date, the principal amount outstanding of loans extended under the DIP Facility shall be (i) converted on a dollar-for-dollar basis to New First Out Term Loans or (ii) repaid in full in cash (provided that the New First Out Term Loan Commitment is met in full). Accrued interest and other obligations under the DIP Facility will be paid in full in cash on the Effective Date.
First Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such First Lien Debt Claims, the holders of First Lien Debt Claims (or the permitted assigns and designees of such holders) shall receive their pro rata share of: (i) New Second Out Term Loans in an amount equal to the New Second Out Term Loan Amount; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans),

Summary of Prepetition Obligations and Interests	
	in each case based on the amount of First Lien Debt Claims as of the Petition Date.
Second Lien Debt Claims Impaired, Voting	On and from the Effective Date, in full and final satisfaction, release, and discharge of such Second Lien Debt Claims, the holders of Second Lien Debt Claims shall receive their pro rata share of : (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants, in each case based on the amount of Second Lien Debt Claims as of the Petition Date.
General Unsecured Claims Unimpaired, Non-Voting	Except to the extent that a holder of an allowed General Unsecured Claim and the Company Party against which such allowed General Unsecured Claim is asserted agree to less favorable treatment for such holder, in full satisfaction of each allowed General Unsecured Claim against the Debtors, each holder thereof shall receive (i) payment in cash in an amount equal to such allowed General Unsecured Claim in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim, or (ii) such other treatment so as to render such Claim unimpaired.
Intercompany Claims	On the Effective Date, Intercompany Claims shall be reinstated, cancelled, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Pointwell Intercompany Debt	On the Effective Date, the Pointwell Intercompany Debt shall be treated in accordance with the Restructuring Transaction Steps.
Intercompany Interests	On the Effective Date, Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.
Existing Parent Equity Interests Impaired, Non-Voting, and Deemed to Reject	On the Effective Date, the Pointwell Share Capital shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps.
Subordinated Claims Impaired, Non-Voting and Deemed to Reject	Holders of Subordinated Claims shall not receive or retain any property under the Plan on account of such Subordinated Claims. On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.
Miscellaneous	
Existing / Exit AR Facility	The Existing AR Facility shall stay in place and the Existing AR Lenders shall continue to fund under the Existing AR Facility through consummation of the Plan (which the Company shall negotiate in good faith with the Existing AR Lenders to amend or modify, as needed, to allow for such funding during the pendency of the chapter 11 cases). On the Effective Date, the Existing AR Credit Agreement shall be amended and restated into the Exit AR Facility Agreement.

Summary of Prepetition Obligations and Interests	
Professional Fee Escrow	The Plan shall require the establishment of a professional fee escrow account (the "**Professional Fee Escrow**") to be funded with cash in the amount equal to the Professional Fee Reserve Amount (defined below). It shall be a condition precedent to the substantial consummation of the Plan that the Company shall have funded the Professional Fee Escrow in full in cash in an amount equal to the Professional Fee Reserve Amount. The Professional Fee Escrow shall be maintained in trust solely for the benefit of professionals retained by the Company, any official committee (a **"Committee**") appointed by the Bankruptcy Court, the Ad Hoc First Lien Group, and the Ad Hoc Crossholder Group (each a "**Professional**," and collectively, the "**Professionals**"). The Professional Fee Escrow shall not be considered property of the Company or its estates, and no liens, claims, or interests shall encumber the Professional Fee Escrow, or funds held in the Professional Fee Escrow, in any way. The "**Professional Fee Reserve Amount**" shall consist of the total amount of (a) any unpaid invoices for fees and expenses incurred by Professionals retained by the Company or any official committee through and including the Effective Date; (b) estimated fees and expenses of the Professionals retained by the Company or any Committee, as estimated by such Professionals in good faith, for (i) accrued but uninvoiced fees and expenses and (ii) post-Effective Date activities, in each case in accordance with the terms of their applicable engagement or reimbursement letters.
Restructuring Fees and Expenses	The Company shall pay, or cause to be paid, immediately prior to the Petition Date, all reasonable and documented fees and expenses for which invoices or receipts are furnished at least one (1) Business Day prior thereto by the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group (the "**Restructuring Fees and Expenses**"), including fees and expenses estimated to be incurred prior to the filing of the Chapter 11 Cases, in each case in accordance with the terms of their applicable engagement or reimbursement letters. As a condition precedent to the occurrence of the Effective Date, the Company will pay all Restructuring Fees and Expenses, including those fees and expenses estimated to be incurred through the Effective Date to the extent invoiced at least two (2) Business Days before the Effective Date.
Incentive Plans	Following the Effective Date, the New Board will adopt a post-Restructuring equity incentive plan ("**Incentive Plan**") comprised of the Management Incentive Plan and the Board Incentive Plan, under which up to 10.0% of the Newco Equity will be reserved for issuance as awards thereunder, of which 15.0-20.0% (*i.e.*, between 1.5%-2.0% of Newco Equity) will be reserved for issuance to nonemployee directors under the Board Incentive Plan and the remaining 80.0-85.0% of which (*i.e.*, between 8.0-8.5% of Newco Equity) will be reserved for issuance under the Management Incentive Plan (the "**MIP Award Pool**"). The MIP Award Pool shall be subject to customary equitable adjustments for changes in capitalization and other reorganization events. Any initial grants under the Management Incentive Plan to individuals party to an employment agreement or similar agreement or offer letter that provides for the grant of any equity interests or similar long-term compensation will be subject to agreement by such executive to (x) eliminate such provisions, to the extent still operative, and (y) accept that all long-term compensation going forward will be in the discretion of the New Board. Awards under the Incentive Plan will be partially time-vesting and partially

Summary of Prepetition Obligations and Interests	
	performance-vesting, on such terms as determined by the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). All other terms with respect to the Incentive Plan (including types of awards, allocations and performance thresholds) will be in the discretion of the New Board, subject to approval by the Evergreen Directors (as defined in the Governance Term Sheet). Any amendment to alter the design of the Incentive Plan or to increase the share reserve available for issuance under the Incentive Plan following the Effective Date will require approval by the Evergreen Directors. The terms and conditions of the Board Incentive Plan shall be (i) agreed by a majority (in holdings or pro forma holdings of Newco Equity) of members of the Steering Committee and the Crossholder Group (each as defined in the Governance Term Sheet) and (ii) approved by the New Board following the Effective Date. The Board Incentive Plan shall provide equal compensation to all directors other than the chairman of the New Board; *provided* that any director who is employed by a stockholder of the Company (or an affiliate thereof) shall not be entitled to receive compensation under the Board Incentive Plan. Neither Skillsoft Corporation nor any of its affiliates shall pay an Exit Bonus, as defined in section 4 of the Employment Agreement dated July 9, 2018, if payable in connection with the Restructuring, in any amount in excess of the specified dollar amount set forth in the second line of section 4 of the Employment Agreement.
Tax Attributes	To the extent reasonably practicable, the Restructuring shall be structured in a manner which minimizes any current cash taxes payable by Company and the Consenting Creditors, if any, as a result of the consummation of the Restructuring. The terms of the Plan shall be structured to maximize the favorable tax attributes of the Reorganized Debtors going forward.
Indemnification	The Company's indemnification provisions currently in place (whether in the bylaws, certificates of incorporation (or other equivalent governing documents), or employment contracts) for current and former directors, officers, employees, managing agents, and professionals and their respective affiliates will be assumed by the Company and not modified in any way by the Restructuring through the Plan or the transactions contemplated thereby.
Transfer Restrictions	No restrictions, subject to applicable law.
Governance (Board Composition & Voting)	The organizational documents and/or stockholders agreement of Newco Parent shall provide, in all material respects, for the terms set forth in the Governance Term Sheet.
Releases and Exculpations	
Parties	The "**Released Parties**" and "**Exculpated Parties**" shall include the Company, the First Lien Agent, the Second Lien Agent, [CIT,] the Sponsor and the Evergreen Skills Entities (collectively, the "**Sponsor Entities**"), the Ad Hoc First Lien Group and its current and former members, the Ad Hoc Crossholder Group and its current and former members, and each of their respective current and former affiliates, subsidiaries, members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case in their respective capacities as such) and other persons and entities acceptable to the Company and the Requisite Creditors.

Summary of Prepetition Obligations and Interests	
	If a Sponsor Material Breach (as defined in the Sponsor Side Agreement) has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date, then the "Released Parties" and the "Exculpated Parties" shall not include the Sponsor Entities and each of their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, managed entities, investment managers, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such); *provided* that releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps. The "**Releasing Parties**" means, collectively, (i) the holders of all Claims or Interests who vote to accept the Plan, (ii) the holders of all Claims or Interests whose vote to accept or reject the Plan is solicited but who do not vote either to accept or to reject the Plan, (iii) the holders of all Claims or Interests who vote, or are deemed, to reject the Plan but do not opt out of granting the releases set forth therein, (iv) holders of Claims or Interests who voted to reject this Plan but did not opt out of granting the releases set forth in the Plan, and (v) the Released Parties.
Releases by Debtors	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Releases by Holders of Claims and Interests	The Plan shall provide: Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely,

Summary of Prepetition Obligations and Interests	
	unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the chapter 11 cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.
Exculpation	The Plan shall provide: To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Management Incentive Plan, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Schedule 1

Debtors

Accero, Inc.
Amber Holding Inc.
CyberShift, Inc.
CyberShift Holdings, Inc.
MindLeaders, Inc.
Pointwell Limited
Skillsoft Canada, Ltd.
Skillsoft Corporation
Skillsoft Ireland Limited
Skillsoft Limited
Skillsoft U.K. Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited SumTotal
Systems LLC
Thirdforce Group Limited

EXHIBIT E

GOVERNANCE TERM SHEET

POINTWELL LIMITED, *ET AL.*

Governance Term Sheet

June 12, 2020

This Governance Term Sheet[1] presents certain preliminary material terms in respect of the capital structure and governance of Newco Parent[2] (the "Company"), which will be reflected in definitive documentation to be negotiated, executed and delivered by the Debtors and the Consenting Creditors, subject in all respects to the terms of the Restructuring Support Agreement (the "RSA"). This Governance Term Sheet is not an exhaustive list of all the terms and conditions in respect of the governance of the Company.

CAPITALIZATION	
Capital Stock	***Authorized Shares***: The capital stock of the Company will consist of (i) [__] shares of common stock ("Common Stock") and (ii) 1,000,000 shares of "blank check" preferred stock ("Preferred Stock"), in each case, or the local law equivalent thereof. ***Common Stock***: An aggregate of [__] shares of Common Stock will be issued on the effective date of the reorganization (the "Effective Date") pursuant to the RSA. There will be one class of Common Stock, with one vote per share. ***Preferred Stock***: No shares of Preferred Stock will be issued on the Effective Date. The Board of Directors of the Company (the "Board") will have the power to issue and define the terms of any class or series of Preferred Stock following the Effective Date.
Warrants	Two tranches of warrants (collectively, the "Warrants") will be issued on the Effective Date, having the terms set forth on Exhibit F to the RSA.
BOARD OF DIRECTORS	
Number of Directors	The board of directors of the Company (the "Board") will initially consist of seven directors (each, a "Director").
Initial Composition of the Board	The Board shall initially be comprised of, and all stockholders will agree to vote their shares to elect, the following individuals: (i) the Chief Executive Officer of the Company; (ii) three Directors (each, an "SC Designated Director") nominated by the group of stockholders listed on Annex A hereto (such stockholders, collectively, the "Steering Committee"); (iii) two Directors (each, a "CHG Designated Director") nominated by the group of stockholders listed on Annex B hereto

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Restructuring Support Agreement.

[2] NTD: Newco Parent will be domiciled in Luxembourg. This Term Sheet remains subject to review and comment by local Luxembourg counsel, including to reflect necessary changes based on the final determination of entity type. The Company shall be treated as a corporation for tax purposes.

	(collectively, the "Crossholder Group"); and (iv) one "independent director"[3] (an "Independent Director") nominated by the mutual agreement of the Steering Committee and the Crossholder Group; provided, that the Independent Director shall serve as the Board's chairperson during the Initial Term; provided further that [Eaton Vance Management, Lodbrok Capital LLP and EQT][4] (such stockholders, the "Evergreen Stockholders") shall each have the right to nominate, in its sole discretion, one Director (an "Evergreen Director"; it being understood that the Evergreen Stockholders shall endeavor to name the Evergreen Directors to serve on the initial Board slate prior to the filing of the plan supplement; provided, further, that (x) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Steering Committee shall correspondingly reduce the number of SC Designated Directors and (y) the appointment of an Evergreen Director by an Evergreen Stockholder that is a lender in the Crossholder Group shall correspondingly reduce the number of CHG Designated Directors.
Term	The initial Directors shall serve until the Company's annual meeting of stockholders held in 2021 (the "Initial Term"), after which all Directors will be elected at each annual meeting of stockholders to serve one-year terms (in each case unless earlier removed pursuant to the terms of the Company's governing documents, which terms will be mutually acceptable to the Steering Committee and the Crossholder Group).
Nomination of Directors[5]	Following the Initial Term, the following Directors shall be nominated for election at each annual meeting of the Company's stockholders or at a special meeting or by written consent of the stockholders at any time: (i) the Chief Executive Officer of the Company; (ii) the Evergreen Directors; provided that in the event the number of shares of Common Stock held by any Evergreen Stockholder (together with its affiliates) falls below 8% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Award Shares and shares of Common Stock underlying the Warrants (collectively, "Excluded Shares")), then from and after such time such Evergreen Stockholder shall no longer be entitled to nominate an Evergreen Director (it being understood that during the Initial Term the applicable Evergreen Director then serving on the Board shall retain his or her seat on the Board until the first annual meeting); provided that, notwithstanding the foregoing, in the event of

[3] NTD: The "independent director" shall qualify as "independent" as such term is used in the New York Stock Exchange rules.

[4] NTD: As of April 25, 2020, each of the Evergreen Stockholders was entitled to at least 10% of the outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares).

[5] NTD: Following the Initial Term, the Directors shall nominate, by majority vote, a chairperson to preside over meetings of the Board.

		an Evergreen Transfer (as defined below), the applicable transferee shall be considered an "Evergreen Stockholder" for all purposes hereof, other than the right to nominate an Additional Director;
	(iii)	if, following the Effective Date, any stockholder of the Company who was a lender under the First Lien Credit Agreement or the Second Lien Credit Agreement as of April 25, 2020 (including the Evergreen Stockholders), together with its affiliates, increases its holdings of Common Stock to at least 25% of the then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "25% Threshold"), such stockholder (a "Significant Stockholder") shall have the right to nominate two Directors (each, an "Additional Director") at the next annual meeting of the Company's stockholders at which Directors are to be elected or, following the Initial Term, at a special meeting, so long as such Significant Stockholder (together with its affiliates) holds at least 20% of the then outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) (the "Additional Directors Floor"); provided that, in the event the number of shares of Common Stock held by a Significant Stockholder (together with its affiliates) falls below the Additional Directors Floor, then from and after such time such Significant Stockholder shall no longer be entitled to nominate any Additional Director; provided, however, that if any Significant Stockholder is also an Evergreen Stockholder, and was an Evergreen Stockholder on the Effective Date, then (x) such Significant Stockholder shall only have the right to nominate one Additional Director (for a total of two Directors) and (y) if the holdings of such Significant Stockholder (together with its affiliates) falls below the Additional Director Floor, then such Significant Stockholder will retain the right to designate an Evergreen Director, subject to the proviso set forth in clause (ii) above; and provided further, that the number of Independent Directors nominated pursuant to clause (iv) immediately below will be reduced, to a number not less than one, in order to accommodate each Additional Director nominated in accordance with the foregoing (and for the avoidance of doubt, if the nomination by a Significant Stockholder of an Additional Director would cause the total number of nominees to the Board to exceed seven, then such Significant Stockholder shall not be entitled to nominate such Additional Director until such time as a seat on the Board becomes available such that such nomination would not cause the total number of nominees to the Board to exceed seven); and
	(iv)	a number of Independent Directors required to fill the remaining seats on the Board, nominated by the stockholders

	collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that in no event will a number of Independent Directors be nominated that would result in the size of the Board exceeding seven Directors.
Voting for Directors	Directors shall be elected by stockholders collectively holding a majority of the outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares); provided that all stockholders shall be required to vote in favor of the election of the Chief Executive Officer and, to the extent nominated in accordance with clauses (ii) and (iii) of the above section titled "Nomination of Directors", the Evergreen Directors and any Additional Director.
Board Observers	In the event that an Evergreen Stockholder elects an Evergreen Director or Additional Director(s), as applicable, who are not employees of such Evergreen Stockholder or such Evergreen Stockholder's affiliates and who otherwise qualify as an Independent Director, then such Evergreen Stockholder shall also have the right to appoint one non-voting observer to the Board (an "Observer"); provided that any Observer shall execute a confidentiality agreement with the Company in a form reasonably satisfactory to the Company (it being understood that such confidentiality agreements will be in a form reasonably customary for such circumstances).
Removal of Directors	Any Director may be removed from office, either with or without cause, by an affirmative vote of stockholders owning a majority of the outstanding shares of Common Stock; provided that (i) during the Initial Term, a SC Designated Director may only be removed by the Steering Committee, a CHG Designated Director may only be removed by the Crossholder Group and the Independent Director may only be removed by the mutual agreement of the Steering Committee and the Crossholder Group; (ii) any Evergreen Director may only be removed by the applicable Evergreen Stockholder and (iii) any Additional Director may only be removed by the applicable Significant Stockholder; provided, further, that all stockholders shall be required to vote (as necessary) to remove any such SC Designated Director, CHG Designated Director, Independent Director, Evergreen Director or Additional Director, as applicable.
Board Vacancies	Any vacancy on the Board shall be filled by the stockholder(s) entitled to nominate the applicable Director in accordance with the nomination requirements described above in the sections titled "Initial Composition of Board" or "Nomination of Directors", as applicable, and all stockholders shall be required to vote (as necessary) to elect such person as a Director[6]; provided that, during the Initial Term, (i) any vacancy on the Board with respect to the SC Designated Directors shall be filled by

[6] NTD: For the avoidance of doubt, no vacancy will result in the event that an Evergreen Stockholder or Significant Stockholder fails to maintain its holdings at the level required in clause (ii) or clause (iii) of "Nomination of Directors", as applicable. Rather (subject to the rights of the Evergreen Stockholders during the Initial Term or with respect to an Evergreen Transfer), such Director seat shall be filled in accordance with clause (iv) of "Nomination of Directors".

	any remaining SC Designated Director(s), (ii) any vacancy on the Board with respect to the CHG Designated Directors shall be filled by any remaining CHG Designated Director, and (iii) any vacancy on the Board with respect to the Independent Director shall be filled by the mutual agreement of the SC Designated Directors and the CHG Designated Directors; provided, further, that, during the Initial Term, (x) if there are no remaining SC Designated Directors, then any such vacancy shall be filled by a majority in interest of the Steering Committee and (y) if there are no remaining CHG Designated Directors, then any such vacancy shall be filled by a majority in interest of the Crossholder Group.
Quorum	The presence of a majority of all Directors then serving on the Board shall constitute a quorum at any meeting of the Board.
Board Voting	All matters will require approval of a majority of the Board; provided that, until the third anniversary of the Effective Date, the following actions (the "Supermajority Matters") shall require the affirmative vote of at least five of seven Directors (or, in the event of a vacancy that remains unfilled for 6 months, an equivalent supermajority): (i) any proposed disposition of 35% or more of the equity interests, or a majority of the assets, of SumTotal Systems, LLC or any of its successors; (ii) the appointment, termination or removal of the Chief Executive Officer of the Company; (iii) (A) a refinancing of 100% of the Company's existing financing arrangements, or (B) the incurrence by the Company and/or its subsidiaries of indebtedness (other than pursuant to financing arrangements in existence on the Effective Date) in excess of $65,000,000, including a partial refinancing of existing indebtedness in excess of such amount; and (iv) any Preferred Stock capital raise in excess of $30,000,000.
Action by Written Consent	Any action by the Board may be taken by unanimous written consent in lieu of a meeting.
Board Committees	Board committees may be created by the Board. Committees are permitted to act in any manner only to the extent authorized by the Board and permitted by applicable law. Board committee composition to reflect the composition of the Board.
Subsidiary Boards	Any board of directors (or similar governing body) of any subsidiary of the Company shall be comprised of the same individuals then serving as Directors on the Board, in each case, unless otherwise agreed by the person or group nominating such individual.
Director Limitations	Notwithstanding anything herein to the contrary, in no event shall any individual be nominated or elected as a Director if such person is also (i) employed by a Competitor (as defined below), (ii) employed by an affiliate of a Competitor, or (iii) a holder of 10% or more of the outstanding equity of a Competitor, or if the election of such person would cause the Company to violate applicable law, including antitrust

	laws. "Competitor" shall mean a competitor of the Company as determined by the Board in its reasonable business judgment; provided, however, that in no event shall the members of the Steering Committee and the Crossholder Group (including such members' directors, officers, employees, agents and affiliates) be considered "Competitors".
STOCKHOLDER RIGHTS	
Annual Meetings	Each annual meeting of the Company's stockholders must be held within 13 months of the prior year's annual meeting.
Special Meetings	One or more stockholders (the "Requesting Stockholders") collectively holding at least 25% of the outstanding shares of Common Stock may call a special meeting of the stockholders. Special meetings must be held within 60 days of a request by the Requesting Stockholders.
Stockholder Proposals	At any meeting of stockholders, only the business brought forward by the Directors or the stockholders shall be decided. To submit business (i) for an annual meeting, a stockholder must provide notice not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting and (ii) for a special meeting, the Requesting Stockholders must provide notice in connection with their request for such meeting. In each case, stockholders must provide a description of business to be discussed along with information about their holdings and interests in the Company in the notice. There is no limit with respect to the number of matters that can be brought at a meeting.
Quorum	Stockholders holding a majority of the then-outstanding shares of Common Stock shall constitute a quorum. Unless otherwise required by law or the Company's governing documents, the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock present in person or voting by proxy shall be sufficient to take corporate action.
Stockholder Approval Matters	The following actions shall require the affirmative vote of holders of at least a majority of the then-outstanding shares of Common Stock: (i) the matters set forth in clauses (i) and (iii) of the definition of "Supermajority Matters"; provided that stockholder approval shall not be required for any matter set forth in clause (iii)(A) of the definition of "Supermajority Matters", or for any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters" if, in the case of any matter set forth in clause (iii)(B) of the definition of "Supermajority Matters", the proceeds of such financing are used for general corporate purposes; (ii) the issuance, in one or more related transactions, of any shares of Common Stock (or Preferred Stock or other securities convertible into or exchangeable for Common Stock) exceeding 20% of the then-outstanding shares of Common Stock; and

	(iii) following the 48-month anniversary of the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of all or substantially all of the assets and other similar change-of-control transactions).
Stockholder Action by Written Consent	Stockholders may take any action without a meeting if stockholders having at least the minimum number of votes required to take such action at a meeting at which all shares entitled to vote thereon were present and voted consent in writing (including by electronic submission), provided that prompt written notice of such action is provided to the non-consenting stockholders; and provided, further, that, except with respect to the election of Directors following the Initial Term in accordance with the above section titled "Nomination of Directors", such written notice will be delivered not less than [___] days following such action.
Transfers	Common Stock will be freely transferable, subject to compliance with applicable law. Notwithstanding the foregoing, holders of Common Stock (including Common Stock issuable upon exercise of Warrants) or Warrants shall not transfer any such Common Stock or Warrants, as applicable, if, in the Board's judgment, such transfer could, or may reasonably be expected to, result in an increase in the number of holders of record of such class of equity securities which would cause the Company to become required to register such securities under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). In the event that an Evergreen Stockholder transfers all of its Common Stock to an unaffiliated transferee and, at the time of such transfer, such Evergreen Stockholder is entitled to nominate an Evergreen Director in accordance with clause (ii) of the above section titled "Nomination of Directors" (such transfer, an "Evergreen Transfer"), then the right of such Evergreen Stockholder to nominate an Evergreen Director shall transfer to such unaffiliated transferee and all rights and limitations hereunder applicable to an Evergreen Stockholder (other than the right to nominate an Additional Director) shall apply to such transferee mutatis mutandis.
Sale of the Company	During the 48-month period following the Effective Date, any sale of the Company (to include a sale of a majority of the then-outstanding capital stock, a merger, a sale of a majority of the assets and other similar change-of-control transactions), will require the approval of the holders of 66 2/3% or more of the then-outstanding shares of Common Stock.
Drag-Along Right[7]	Subject to the stockholder approval rights set forth in the above sections titled "Reserved Matters" and "Sale of the Company", as applicable, the Company and stockholders will have customary drag-along rights (the "Drag-Along Rights") to require all stockholders to participate on a *pro*

[7] NTD: The definitive governance agreements will address the issue of non-cash consideration in drag or tag-along transactions and the ability of CLOs to participate in such transactions.

	rata basis in any merger, consolidation or other similar transaction or series of related transactions pursuant to which any person or group of persons acquires from the stockholders of the Company 50% or more of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) of all shares of Common Stock held by such selling stockholders to an unaffiliated third party in a bona fide transaction. The Drag-Along Rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders shall be in the same form and amount per share.
Tag-Along Right	Stockholders will have customary tag-along rights in the event that one or more stockholders wish to sell Common Stock representing at least [___]% of the then-outstanding shares of Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) to an unaffiliated third party in a bona fide transaction (a "Tag-Along Sale"). Tag-along rights shall be subject to customary limits on representations, warranties, restrictive covenants and indemnities and the consideration to be received by stockholders participating in transactions subject to such tag-along rights shall be in the same form and amount per share. In the event of a Tag-Along Sale, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in the Tag-Along Sale with respect to the Common Stock received pursuant to such exercise.
Preemptive Rights	From and after the Effective Date and prior to a qualified IPO, holders of more than 1% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) will have customary preemptive rights on all issuances by the Company and its subsidiaries of equity and convertible debt securities (subject to customary exceptions.[8] In the event of any such issuance, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, exercise preemptive rights with respect to the Common Stock received pursuant to such exercise.
Information Rights	The Company shall provide all holders of more than 1.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares) with both quarterly unaudited financial statements within a customary time period following each quarter's end and annual audited financial statements within a customary time period following each fiscal year's end (the foregoing financial statements provided to all stockholders, the "Financial Statements"); provided that the Company shall not provide such information to any stockholder that is a Competitor.[9] Information to be subject to customary confidentiality requirements. In addition, the Company will schedule a teleconference

[8] NTD: Ability to issue securities in the event emergency funding is required to be discussed in conjunction with the stockholders agreement and, unless such issuance is exclusively in the form of debt securities, all holders that were otherwise entitled to participate shall be provided with preemptive rights post-closing.

[9] NTD: Timing of information rights related deliveries to align with reporting requirements under credit documents of the Company and/or its subsidiaries.

	with (i) all holders of more than 3.5% of then-outstanding Common Stock (calculated on a fully-diluted basis, excluding Excluded Shares), other than Competitors, and (ii) all holders of then-outstanding Common Stock who are also members of the Steering Committee and Crossholder Group as of the date of the RSA, between 5 and 15 business days after the delivery of each quarterly and annual financial report to discuss the Company's business, financial condition and financial performance, prospects, liquidity and capital resources.
Registration Rights	***Demand Registration Rights***: Following an initial public offering by the Company (an "IPO"), upon receipt of a demand by one or more holders collectively holding at least 10% of the outstanding shares of Common Stock (collectively, "Registrable Securities"), subject to mutually agreed restrictions regarding the aggregate number of demand rights and customary time limitations and suspension/blackout periods, the Company shall provide a notice to all holders of Registrable Securities to allow participation in a registration as selling holders. Amounts sold by selling holders will be *pro rata* based on the relative amounts of Registrable Securities held by them, subject to *pro rata* reduction based on any cap on the number of securities to be sold as advised by the underwriters, and subject to normal blackout provisions. For the avoidance of doubt, Warrants shall not be considered "Registrable Securities" hereunder. Notwithstanding the foregoing, following the Company's receipt of a demand in accordance with the preceding paragraph, the Company shall provide notice to the holders of Warrants in order to enable any such holders to exercise their Warrants and, to the extent permitted, participate in such registration with respect to the Common Stock received pursuant to such exercise. ***Piggyback Registration Rights***: If the Company plans to file a registration statement (other than for an IPO or in other customary circumstances in which piggy-back rights are not appropriate), the Company shall provide a notice to all holders of Registrable Securities to offer participation in the registration as selling holders. The Company shall have the right to sell as many shares as the Company wants and any additional securities that may be sold as advised by the underwriters will be allocated among the participating selling holders on a *pro rata* basis based on the relative amounts of Registrable Securities held by them, in all cases subject to normal blackout provisions. ***Lock-Up***: Any reasonable lock-up requested by underwriters shall apply only to selling holders and, in connection with an IPO only, holders holding more than 5% of the outstanding shares of Common Stock. Registration Rights shall be provided pursuant to an agreement in reasonably customary form for transactions of this type.
OTHER	
Dividends	Subject to applicable law, the Board may declare and pay dividends upon the shares of the Company's capital stock.

Corporate Opportunities	No executive director or officer of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan. No non-executive director of the Company and/or its subsidiaries shall be permitted to pursue any corporate opportunity that could reasonably benefit the Company and/or its subsidiaries based on the then-current business plan, in each case, if, and only to the extent, such corporate opportunity was presented to, or acquired, created or developed by, or otherwise came into the possession of, such non-executive director expressly, solely and directly in such person's capacity as a director of the Company, unless a majority of disinterested Directors confirms that the Company (including its subsidiaries) will not pursue such opportunity. For the avoidance of doubt, no stockholder of the Company shall be restricted from pursuing any corporate opportunities, unless such stockholder is also a director or officer of the Company and/or its subsidiaries.
Related Party Transactions	Other than commercial transactions in the ordinary course of business consistent with past practice on arms'-length terms and the issuance of securities pursuant to the preemptive rights described above, the entering into of any transaction with (i) a stockholder, director or officer of the Company, (ii) any entity in which one or more stockholders, directors or officers of the Company owns, directly or indirectly, individually or in the aggregate, 5% or more of the outstanding equity securities of such entity or (iii) any "affiliate", "associate" or member of the "immediate family" (as such terms are respectively defined in rules and regulations under the Exchange Act) of any person described in the foregoing clauses (i) or (ii) shall, in each case, require the affirmative vote of a majority of Directors (excluding any Director who is, or is a related party of, the person with whom the Company or any of its subsidiaries is proposing to enter into the relevant transaction).
Amendments to Governing Documents	***Bylaws***: Subject to applicable law and the terms of the stockholder agreement to which the Company is party (the "Stockholder Agreement") and the Company's certificate of incorporation (as amended, the "Charter"), the bylaws of the Company (the "Bylaws") may be amended or repealed, or new Bylaws adopted, by either the Board or stockholders holding a majority of outstanding shares of Common Stock. ***Charter***: Any amendment to the Charter shall be made in accordance with applicable law. ***Stockholder Agreement***: Amendments to provisions of the Stockholder Agreement shall require the prior consent of stockholders holding (a) 66 2/3% of the then-outstanding shares of Common Stock, with respect to amendments to provisions of the Stockholder Agreement related to: (i) Board participation rights; (ii) size of the Board; (iii) supermajority Board approval rights; (iv) stockholder approval rights; (v) Tag-Along Sale rights; (vi) sale of the Company approval rights; (vii) preemptive rights; and (viii) registration rights and (b) a majority of the then-outstanding shares of Common Stock for all other amendments (in

	either case of (a) or (b), the "Amendment Threshold"); provided that (i) no amendment may adversely affect a stockholder relative to other stockholders without such stockholder's specific written consent; (ii) any amendment to the provisions of the Stockholder Agreement regarding the rights of one or more stockholders to nominate Directors shall require the written consent of all such nominating stockholders; and (iii) no provision of the Stockholder Agreement which requires the consent of stockholders owning more than the Amendment Threshold to take the action described therein may be amended without the consent of stockholders owning such higher percentage of shares of Common Stock. Upon an IPO, the Stockholder Agreement (other than provisions relating to registration rights) shall terminate. In the event of a conflict between the Stockholder Agreement, on the one hand, and the Bylaws or the Charter, on the other hand, the Stockholder Agreement will prevail, and the stockholders will take all actions necessary to amend the Charter and/or Bylaws to the extent necessary to conform to the relevant terms of the Stockholder Agreement.

ANNEX A

Steering Committee

- Alcentra Limited
- Apollo Capital Management, L.P.
- Benefit Street Partners L.L.C.
- DDJ Capital Management, LLC
- Eaton Vance Management, Boston Management and Research, Calvert Research and Management
- PGIM, Inc.
- Symphony Asset Management LLC
- Voya Investment Management Co, LLC

ANNEX B

Crossholder Group

- CRF2 SA, CRF3 Investments I S.à.r.l., EAD Credit Investments I SARL, and Empire Credit Investments I SARL (collectively, "EQT")
- Lodbrok Capital LLP
- Signature Global Asset Management, a division of CI Investments Inc.
- MS Capital Partners Adviser Inc.

EXHIBIT F

WARRANT TERM SHEET

Warrant Term Sheet[1][2]

June 12, 2020

This Warrant Term Sheet, which is Exhibit F to a Restructuring Support Agreement dated June 12, 2020 (the "***Restructuring Support Agreement***"), by and among Pointwell Limited and certain of its affiliates and subsidiaries, the Agent, and the Consenting Lenders, describes the material terms relating to warrants to be issued by Newco Parent that would be issued in connection with the consummation of the Restructuring.[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Restructuring Support Agreement.

THIS WARRANT TERM SHEET IS PRESENTED FOR DISCUSSION AND SETTLEMENT PURPOSES AND IS ENTITLED TO PROTECTION FROM ANY USE OR DISCLOSURE TO ANY PERSON PURSUANT TO RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER RULE OF SIMILAR IMPORT.

THIS WARRANT TERM SHEET DOES NOT PURPORT TO SUMMARIZE ALL OF THE TERMS, CONDITIONS, COVENANTS AND OTHER PROVISIONS THAT MAY BE CONTAINED IN THE FULLY NEGOTIATED AND EXECUTED DEFINITIVE DOCUMENTATION IN CONNECTION WITH THE ISSUANCE OF WARRANTS. THIS WARRANT TERM SHEET AND THE INFORMATION CONTAINED HEREIN SHALL REMAIN STRICTLY CONFIDENTIAL.[4]

Term	Description
Issuer:	Newco Parent (such entity, "***Issuer***").[5]
Warrants:	On the Effective Date (the "***Effective Date***"), Issuer will issue the following two tranches of warrants (collectively, the "***New Warrants***") to the holders thereof (collectively, the "***Holders***"): - ***Tranche A Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche A Warrants, common stock of Issuer ("***New Common Stock***") representing in the aggregate 5% of the total outstanding New Common Stock; and - ***Tranche B Warrants***, which will entitle the Holders thereof to receive, upon exercise of the Tranche B Warrants, New Common Stock representing in the aggregate 10% of the total outstanding New Common Stock. For purposes of calculating the percentage of New Common Stock issued upon exercise of the New Warrants, the total outstanding New Common Stock shall be calculated as of the Effective Date and assuming the exercise of all such New Warrants (but excluding any New Common Stock issued or reserved for issuance under any management and/or board incentive plan implemented by Issuer).[6]

Exercise Price:	The exercise price for the New Warrants (the "***Exercise Price***") will be fixed as of the Effective Date (as may be thereafter adjusted as set forth under "Fundamental Transaction" and "Anti-Dilution" below) and shall be as follows: - To the extent that the Holder elects to exercise the Tranche A Warrants: a price per share equal to [___][7] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium; and - Tranche B Warrants: a price per share equal to [___] with the Exercise Price being allocated at par value per share to share capital and the difference to share premium.[8][9]
Term:	The New Warrants will expire on the earlier of (x) the fifth (5th) anniversary of the Effective Date and (y) the consummation of a Fundamental Transaction (as defined below) (the "***Expiration Date***"). Upon the fifth (5th) anniversary of the Effective Date, each outstanding New Warrant shall automatically be deemed to be exercised on a "cashless basis"[10] (as described below).
Fundamental Transaction:	Each New Warrant shall be automatically exercised immediately prior, but subject to, the consummation of a Fundamental Transaction on a "cashless basis" (as described below) and each Holder shall participate in such Fundamental Transaction with respect to the shares of New Common Stock issuable upon such exercise.[11] The exercise price applicable to such exercise will be the lesser of (i) the then-current Exercise Price, and (ii) a Black Scholes Adjusted Exercise Price (which will be a price calculated to provide to each Warrant holder ordinary shares which, when exchanged for the Fundamental

[1] **Note to Draft**: Subject to review in connection with ongoing structuring discussions.

[2] **Note to Draft:** Subject to review by Luxembourg counsel to the Company.

[3] **Note to Draft:** All definitions subject to alignment with RSA.

[4] The terms of the New Warrants remain subject to revision for reconciliation with applicable Luxembourg law.

[5] Issuer to be top entity in post-reorganization structure.

[6] Subject to revision for reconciliation with applicable Luxembourg law.

[7] **Note to Draft**: Price per share should reflect an amount that will equal 105% recovery to the 1L lenders on converted face amount.

[8] **Note to Draft**: Price per share should reflect an amount that will equal 110% recovery to the 1L lenders on converted face amount.

[9] **Note to Draft**: Par value must be set and remain at a point that causes the maximum cash exercise price for all Warrants not to exceed [$100].

[10] Subject to revision for reconciliation with applicable Luxembourg law.

[11] **Note to Draft**: Parties to address potential competition law filings to resulting from actual issuance of shares in this context.

	Transaction consideration per ordinary share (the "***Transaction Consideration***"), will cause the holder to realize, net of the Black Scholes Adjusted Exercise Price, a net Fair Market Value of the Transaction Consideration equal to the Black Scholes Value per share of each Warrant). As used herein, "***Fundamental Transaction***" means any (i) merger, consolidation, amalgamation or other similar transaction or series of related transactions to which the Issuer is a party and pursuant to which (A) an existing Stockholder (or its affiliate, or other person comprising an existing stockholder and one or more of its affiliates) acquires 90% or more of the voting power of the outstanding securities of the Issuer or (B) the "beneficial owners" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended) of the outstanding equity securities of Issuer immediately prior to such transaction "beneficially own" in the aggregate less than 50% of the voting power of the outstanding equity securities of the surviving entity immediately following such transaction, (ii) sale, transfer or disposition of all or substantially all of Issuer's assets (by value), which is consummated with a third-party who is unaffiliated with Issuer (other than a stockholder who is affiliated with the Issuer) at the time of such transaction, or (iii) voluntary or involuntary dissolution, liquidation or winding-up of Issuer, in each of cases (i)-(iii), which is effected in such a way that the holders of New Common Stock receive or are entitled to receive (either directly or upon subsequent liquidation) cash, stock, securities or other assets or property with respect to or in exchange for New Common Stock. As used herein, "***Black Scholes Value***" means the value of the unexercised portion of any New Warrants remaining on the date of any Holder's notice of election, which value shall be determined by an investment banking firm or independent third-party appraiser, in each case of nationally recognized standing (the "***Appraiser***") using the Black Scholes Option Pricing Model for a "call" option, as obtained from the "OVME" function on Bloomberg, L.P. subject to the following assumptions: (i) an underlying price per share equal to the sum of the price per share of New Common Stock being offered in cash in the applicable Fundamental Transaction (if any) *plus* the Fair Market Value of the non-cash consideration being offered to holders with respect to each share of New Common Stock in the applicable Fundamental Transaction (if any), (ii) a strike price equal to the Exercise Price in effect on the date of the Holder's notice of election, (iii) a risk-free interest rate corresponding to the interpolated rate on the United States Treasury securities with a maturity closest to the remaining term of the New Warrant as of the date of consummation of the applicable Fundamental Transaction, (iv) a zero cost of borrow and (v) an expected volatility equal to 35%. For purposes of determining the Black Scholes Value and the Fair Market Value (as described below), the Appraiser shall be selected by the Independent Director (as defined in the Governance Term Sheet) or, if there is more than one Independent Director on the New Board at such

	time, a majority of such Independent Directors, in each case at the sole cost and expense of the Issuer.[12]
Exercise; Payment of Exercise Price:	The New Warrants shall be exercisable, at the option of the Holder thereof, at any time prior to the Expiration Date, in whole or in part, into New Common Stock, by delivering to Issuer such New Warrant(s), together with a notice of exercise of such New Warrant(s). The issuance of New Common Stock pursuant to the exercise of New Warrants (collectively, the "***Warrant Shares***") shall be subject to payment in full by the Holder of the applicable Exercise Price either (i) by delivery to Issuer of a certified or official bank check or by wire transfer of immediately available funds in the amount of the aggregate Exercise Price for such Warrant Shares or (ii) on a "cashless basis" by paying the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) as follows: (i) payment by the Holder of the par value of the Warrant Shares in cash, and (ii) payment of the difference of the Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) by instructing Issuer to withhold a number of Warrant Shares (or fraction thereof) then issuable upon exercise of such New Warrant(s) with an aggregate Fair Market Value as of the Exercise Date equal to such aggregate Exercise Price (or the Black Scholes Adjusted Exercise Price, as applicable) (in either case, less the amount of the cash exercise payment). For purposes of such a "cashless" exercise, the value of the Warrant Shares withheld will be calculated based on the per share fair market value ("***Fair Market Value***") of New Common Stock: (a) if the Warrant Shares are then listed for trading on a national securities exchange, based on the 30 consecutive trading day volume weighted average closing price as of such date or (b) if the Warrant Shares are not so listed for trading on a national securities exchange, as determined by the Appraiser.[13]
Stockholder Rights:	Neither the New Warrants nor anything contained in the definitive documentation for the New Warrants shall be construed as conferring upon the Holders thereof (i) the right to vote, participate, consent or receive notice as a holder of New Common Stock in respect of any meeting of holders of New Common Stock for the election of directors of Issuer or any other matter, (ii) the right to receive dividends or other distributions as a holder of New Common Stock, or (iii) any other rights of a stockholder, whether or not granted to holders of New Common Stock under Issuer's governing documents.
Issuer Obligation:	The Issuer shall ensure that it at all times maintains an authorized share capital equivalent to the number of outstanding New Warrants to ensure that exercise of same may be completed at any time prior to the Expiration Date.

[12] Subject to revision for reconciliation with applicable Luxembourg law.

[13] Subject to revision for reconciliation with applicable Luxembourg law.

Anti-Dilution:	The New Warrants will be subject to (i) dilution by the management and board incentive plans, consistent with the Restructuring Term Sheet and (ii) customary adjustments (an "***Anti-Dilution Adjustment***") for (a) the subdivision or combination of the New Common Stock underlying the New Warrants, (b) the payment by Issuer of dividends or other distributions on the outstanding New Common Stock in Issuer payable in New Common Stock, other shares of capital stock of Issuer, rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock, or in cash or other property and (c) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock; provided, however, there shall be no Anti-Dilution Adjustment to the Warrants (x) for any (1) payment by Issuer of dividends or other distributions on the outstanding New Common Stock of Issuer payable in rights to purchase shares of capital stock at a price per share that is less than the Fair Market Value of such capital stock (a "***Below FMV Issuance***") to the extent such rights are offered solely to holders of New Common Stock that are also New Warrant holders, or (2) repurchase of New Common Stock at a price that is greater than the then Fair Market Value of such New Common Stock (an "***Above FMV Repurchase***") to the extent such repurchase solely applies to shares of New Common Stock held by holders of New Common Stock that are also New Warrant holders or (y) with respect to any Below FMV Issuance or Above FMV Repurchase approved by the New Board if, at the time of such approval, a majority of the New Board comprises representatives of EQT (as defined in the Governance Term Sheet), Lodbrok Capital LLP, their respective affiliates or the transferees of New Warrants from any of the foregoing. In addition, in the event of any (i) reclassification of the New Common Stock, (ii) consolidation or merger of Issuer with or into another person or (iii) other similar transaction, in each case which (x) does not constitute a Fundamental Transaction and (y) entitles the holders of New Common Stock to receive (either directly or upon subsequent liquidation and whether in whole or in part) securities or other assets in exchange for the New Common Stock, the New Warrants shall, immediately after such transaction, remain outstanding and shall thereafter, in lieu of the number of shares of New Common Stock then issuable upon exercise of the New Warrants, be exercisable for the kind and number of securities or other assets resulting from such transaction which the Holders would have received upon consummation of such transaction if the Holders had exercised the New Warrants in full immediately prior to the time of such transaction and acquired the applicable number of shares of New Common Stock then issuable upon exercise of the New Warrants as a result of such exercise.[14] For purposes of any Anti-Dilution Adjustment, the "Fair Market Value" of New Common Stock shall be determined in the same manner as

[14] Subject to revision for reconciliation with applicable Luxembourg law.

	described above with respect to the Fair Market Value of Warrant Shares.
Transferability:	The New Warrants shall be transferrable, subject to applicable securities laws (including securities laws applicable to the Issuer as a private company) and such restrictions as are in effect in respect of the New Common Stock.
Amendment:	The terms and conditions of the New Warrants may be amended (i) within the first year following the Effective Date, by vote of more than 66.7% of the Board members appointed by shareholders other than the members of the Ad Hoc Crossholder Group and (ii) after the first anniversary of the Effective Date, by vote of 5 of 7 members of the New Board; *provided* that any amendment that would affect the Exercise Price, number of Warrant Shares for which the New Warrants may be exercised, or would materially and adversely affect the Holders shall require the affirmative vote or written consent of the Holders of a majority of the outstanding New Warrants.[15]
Governing Law:	Luxembourg[16]

[15] Subject to revision for reconciliation with applicable Luxembourg law. The amendment provisions of the New Warrants to contain a power of attorney to permit such provisions to function without requiring consent by all contracting parties.

[16] Power of attorney function is intended to address the concern about amendments.

EXHIBIT G

FORM OF JOINDER AGREEMENT FOR CONSENTING CREDITORS

This Joinder Agreement to the Restructuring Support Agreement, dated as of June 12, 2020 (as amended, supplemented, or otherwise modified from time to time, the "**Agreement**"), by and among the Company and the Consenting Creditors, is executed and delivered by _____ (the "**Joining Party**") as of [●], 2020. Each capitalized term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. Agreement to be Bound. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Annex I (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be (i) a "Consenting First Lien Creditor" and/or a "Consenting Second Lien Creditor," (ii) a "Consenting Creditor," and (iii) a "Party" for all purposes under the Agreement and with respect to any and all Claims and Interests held by such Joining Party.

2. Representations and Warranties. With respect to the aggregate principal amount of the First Lien Debt, the Second Lien Debt, and Interests, in each case, set forth below its name on the signature page hereto, the Joining Party hereby makes the representations and warranties of the Consenting Creditors set forth in Section 7 and Section 21 of the Agreement to each other Party to the Agreement.

3. Governing Law. This Joinder Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date written above.

CONSENTING CREDITOR

By: _____

Name: _____

Title: _____

Principal Amount of the First Lien Term Loans: $_____

Principal Amount of the First Lien Revolving Loans: $_____

Principal Amount of the Second Lien Debt: $_____

Interests (please describe): _____

Notice Address:

Fax:_____
Attention:_____
Email:_____

Acknowledged:

[●]

By:_____
Name:
Title:

Exhibit B

Sponsor Side Agreement

Weil, Gotshal & Manges (London) LLP
110 Fetter Lane
London EC4A 1AY
+44 20 7903 1000 main tel
+44 20 7903 0990 main fax
weil.com

EXECUTION VERSION

12 June 2020

CO-OPERATION AGREEMENT

between

POINTWELL LIMITED

and

THE CONSENTING CREDITORS

and

CHARTERHOUSE GENERAL PARTNERS (IX) LIMITED

and

EVERGREEN SKILLS INTERMEDIATE LUX S.À R.L.

and

EVERGREEN SKILLS LUX S.À R.L.

and

EVERGREEN SKILLS TOP HOLDING LUX S.À R.L

and

EVERGREEN SKILLS HOLDING LUX S.À R.L

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THIS AGREEMENT is made on ___ June 2020 between the following parties

(1) **THE CONSENTING CREDITORS** (as defined below) listed in Schedule 1;

(2) **POINTWELL LIMITED** (the "**Company**");

(3) **CHARTERHOUSE GENERAL PARTNERS (IX) LIMITED** (the "**Sponsor**");

(4) **EVERGREEN SKILLS INTERMEDIATE LUX S.À R.L.**;

(5) **EVERGREEN SKILLS LUX S.À R.L.**;

(6) **EVERGREEN SKILLS TOP HOLDING LUX S.À R.L.**; and

(7) **EVERGREEN SKILLS HOLDING LUX S.À R.L.**

WHEREAS, the Company is party to a term loan facility provided under that certain First Lien Credit Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**First Lien Credit Agreement**") between, among others, Evergreen Skills Intermediate Lux S.à r.l., Evergreen Skills Lux S.à r.l., Skillsoft Canada Ltd, Skillsoft Corporation and the undersigned lenders, or investment advisors or managers for the account of lenders, party thereto from time to time (the "**First Lien Lenders**" and, the undersigned First Lien Lenders (together with their respective successors and permitted assigns) and any subsequent First Lien Lender that becomes party hereto in accordance with the terms hereof, each in its capacity as a First Lien Lender, a "**Consenting First Lien Lender**" and, collectively, the "**Consenting First Lien Lenders**");

WHEREAS, the Company is party to a term loan facility provided under that certain Second Lien Credit Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Second Lien Credit Agreement**") between, among others, Evergreen Skills Intermediate Lux S.à r.l., Evergreen Skills Lux S.à r.l., Skillsoft Canada Ltd, Skillsoft Corporation and the undersigned lenders, or investment advisors or managers for the account of lenders, party thereto from time to time (the "**Second Lien Lenders**" and, the undersigned Second Lien Lenders (together with their respective successors and permitted assigns) and any subsequent Second Lien Lender that becomes party hereto in accordance with the terms hereof, each in its capacity as a Second Lien Lender, a "**Consenting Second Lien Lender**" and, collectively, the "**Consenting Second Lien Lenders**" and, together with the Consenting First Lien Lenders, the "**Consenting Creditors**");

WHEREAS, the Sponsor, the Evergreen Entities, the Company, and the Consenting Creditors in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree each on a several and not joint basis as follows:

1 INTERPRETATION

1.1 Definitions

In this agreement unless otherwise defined herein, terms shall have the meaning given to them in the Restructuring Support Agreement:

"**Affiliate**" means with respect to a person, any other person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such person, provided that: (i) for the purposes of this definition of Affiliate the term "control", "controlled by" and "under common control with" means the possession, directly or indirectly, through one or more intermediaries, of: (A) the power to direct or cause the direction of the management and policies of a person whether by contract or otherwise; (B) the right to more than 50 percent. of the profits of a person, in each case whether through the ownership of shares, interests and/or other securities of any kind, by contract or otherwise or (C) vote on more than 50 percent, of the securities having ordinary voting power for

the election of directors of such person; (ii) in respect of a limited partnership or a fund, any general partner, investment manager, investment adviser, nominee or trustee of such limited partnership or fund, shall be deemed to be an Affiliate of any member of the Sponsor; (iii) a portfolio company of any fund or account managed or advised by a Party, other than the Company or any company in the Group, shall not be deemed to be an Affiliate of such Party; and (iv) any person which is deemed to be an Affiliate of the Sponsor principally as a result of being managed and/or advised by the Sponsor, shall only be an "Affiliate" for so long as it continues to be managed and/or advised in such manner;

"**Agreed Fees**" means the fees, costs and expenses of the Sponsor (or relevant Affiliates) (but excluding the Replacement Agent Fees and the Group Audit Fees), subject to the maximum amount, payable by the Company in accordance with and pursuant to the terms of this Agreement which shall total, in aggregate, not more than $1,426,259.18;

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London, Dublin and New York;

"**CIT Facility**" means that certain Credit Agreement (as may be further amended, restated, amended and restated, waived, supplemented, or otherwise modified from time to time), dated as of December 20, 2018, among Skillsoft Receivables Financing LLC, a Delaware Limited Liability Company, the lenders party thereto and CIT Bank, N.A., as administrative agent, collateral agent and accounts bank;

"**Evergreen Entities**" means, collectively, Evergreen Skills Intermediate Lux S.à r.l., Evergreen Skills Lux S.à r.l., Evergreen Skills Top Holding Lux S.à r.l. and Evergreen Skills Holding Lux S.à r.l.;

"**Group**" means the Company and any of its subsidiaries from time to time;

"**Group Audit Fees**" means any fees, costs and expenses incurred by the Company, the Evergreen Entities and/or the Sponsor or its Affiliates in connection with Ernst & Young's audit and subsequent report on the consolidated financial statements of Evergreen Skills Top Holding Lux S.à r.l. (which audit and report are conducted and issued, respectively, on a Group-wide basis) for the financial year ending 31 January 2020;

"**LN Litigation**" means the litigation captioned *Neal v. SkillSoft Corporation*, Case No. 1:17-cv-11833-MLW, currently pending in the District Court for the District of Massachusetts and any other lawsuits stating substantially the same causes of action;

"**Mutual Release**" means the mutual release agreement, the final form of which is attached hereto as Schedule 2;

"**Party**" means a party to this Agreement, each such party bound on a several but not a joint basis;

"**Public Restructuring Documents**" means any of the Definitive Documents or other ancillary document that is required to be filed or disclosed in connection with the Restructuring Transactions and as result of such filing or disclosures becomes available to persons other than direct stakeholders of the Group;

"**Related Entity**" in relation to an entity (the "**First Entity**"), means an entity which is managed or advised by the same investment manager or investment advisor as the First Entity (or its Affiliates) or, if it is managed by a different investment manager or investment advisor, an entity whose investment manager or investment advisor is an Affiliate of the investment manager or investment advisor of the First Entity (or its Affiliates);

"**Replacement Agent Fees**" means any fees, costs and expenses incurred by the Company, the Evergreen Entities and/or the Sponsor or its Affiliates in connection with the replacement of the

First Lien Agent and Second Lien Agent, as defined in the First Lien Credit Agreement and Second Lien Credit Agreement, respectively;

"**Requisite Creditors**" means, as of the date of determination, the Requisite First Lien Lenders and the Requisite Second Lien Lenders;

"**Requisite First Lien Lenders**" means, as of the date of determination, Consenting First Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the First Lien Debt then held by all Consenting First Lien Lenders;

"**Requisite Second Lien Lenders**" means, as of the date of determination, Consenting Second Lien Lenders holding at least a majority of the aggregate principal amount outstanding of the Second Lien Debt then held by all Consenting Second Lien Lenders;

"**Reservations**" means the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to bankruptcy, insolvency, reorganisation, moratorium and other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability, and similar principles, rights and defences under the laws of any relevant jurisdiction;

"**Restructuring Support Agreement**" means the agreement dated on or around the date of this Agreement between, among others, the Company and the Consenting Creditors in connection with the Restructuring (as defined therein) as amended, restated, supplemented or otherwise from time to time, a copy of which has been delivered by the Company to the Sponsor on or before the date of this Agreement;

"**Restructuring Transactions**" means the Restructuring as set out in the Restructuring Term Sheets;

"**Sponsor Material Breach**" means a breach of Clause 2.6 or Clause 2.8 of this Agreement by the Sponsor or the Evergreen Entities which may reasonably be expected to materially delay, impede, frustrate, hinder or prevent the implementation or consummation of the Restructuring Transactions, provided: (i) always that the Company and/or the Consenting Lenders must notify the Sponsor as soon as reasonably practicable upon becoming aware of any such breach; and (ii) that if the breach is remedied within five (5) Business Days of the Sponsor receiving written notice of such breach from the Company and/or the Consenting Lenders, such breach shall not constitute a Sponsor Material Breach; and "**Sponsor Representative**" means any current or former employee, director, officer, agent of the Sponsor and any Affiliate or Related Entity of the Sponsor, including any holding company of the Company, but excluding any current employee, director, officer or agent of a member of the Group.

1.2 Construction

In this Agreement, unless a contrary indication appears or the context otherwise requires:

(a) singular includes plural and vice versa;

(b) a reference to a Clause, Sub-clause or Schedule is a reference to a clause or sub-clause of, or a schedule to, this Agreement;

(c) the headings and recitals in this Agreement do not affect its interpretation;

(d) a reference to a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;

(e) a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being

of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(f) a reference to any document is a reference to that document as amended, supplemented, novated, extended or restated;

(g) a reference to a "**person**" includes any individual, firm, company, corporation, unincorporated association, governmental body, state or agency of a state or any association, trust, fund, joint venture, consortium or other partnership (whether or not having separate legal personality);

(h) a reference to a Party or any other person includes its successors in title, permitted assigns and permitted transferees; and

(i) where reference is made to the Company or the Group committing to an undertaking, the Consenting Creditors are acknowledging such undertaking in their capacity as First Lien Lenders, Second Lien Lenders and prospective shareholders of the Group (as applicable).

1.3 Third party rights

No consent of any third party (including, but not limited to, any third party to which rights are expressly granted under this agreement), is required for any amendment (including any release or compromise of any liability) or termination of this Agreement.

2 UNDERTAKINGS

2.1 The Company and the Consenting Creditors undertake to the Sponsor, from the date of this Agreement until this Agreement is terminated, that:

(a) no Public Restructuring Document shall include the details of any Sponsor Representative's prior or existing directorships, save for any directorships held in the Group, without the prior written consent of the relevant Sponsor Representative; *provided* that nothing herein shall prohibit the Parties from disclosing such information to the Bankruptcy Court or from filing it publicly with the Bankruptcy Court where such disclosure is required; and

(b) neither they, nor any of their advisors or Affiliates (and in the case of the Company, shall procure that no other member of the Group) shall make any public statement or issue any press release that refers to or otherwise names the Sponsor, a Sponsor Representative, any Affiliate of the Sponsor (but excluding the Group, as well as any current employee, director, officer or agent of a member of the Group) or any Related Entity of the Sponsor or the Sponsor Affiliates (the "**Relevant Sponsor Entity**") without such reference having been agreed in advance of issuance with the Sponsor; *provided however*, that nothing herein shall prohibit the Parties from disclosing the existence of this Agreement or the terms thereof to the Bankruptcy Court or from filing this Agreement publicly with the Bankruptcy Court.

2.2 The Company undertakes to the Sponsor, from the date of this Agreement until this Agreement is duly terminated, that:

(a) it shall use its reasonable endeavours to update the Sponsor, or advisors to the Sponsor, on the progress of the Restructuring Transactions and to inform them, as soon as reasonably practicable, of any key milestone dates (including, but not limited to) any court hearings to be held in connection with the Restructuring Transactions;

(b) if the Restructuring Support Agreement is amended, restated, supplemented or otherwise modified (an "**RSA Amendment**"), details of such RSA Amendment shall be provided to the Sponsor on or before the date falling three (3) Business Days after such RSA

Amendment has become effective. So long as no Sponsor Material Breach has occurred, no RSA Amendments shall be made that could be reasonably expected to materially adversely affect the Sponsor without the Sponsor's prior written consent; and

(c) it shall use its reasonable endeavours to facilitate an orderly wind-down of the Evergreen Entities as soon as reasonably practicable such that it can be managed in a tax-efficient manner for the Sponsor, but only to the extent such steps would not result in (i) any material costs or expenses to the Company; (ii) any material delay of the Restructuring; (iii) any material adverse effect on the Consenting Creditors; or (iv) any material adverse tax consequences for the Company or any other member of the Group. In order to satisfy this undertaking the Company shall facilitate reasonable access for the Sponsor and/or any relevant Affiliate or Related Entity of the Sponsor, to the Group's auditors, to Bobby Jenkins (Bobby.Jenkins@skillsoft.com), John Frederick (John.Frederick@skillsoft.com), Greg Porto (Greg.Porto@skillsoft.com), and Ryan Murray (Ryan.Murray@skillsoft.com), and to such information as the Sponsor may reasonably require.

2.3 Provided that: (i) there has been no Sponsor Material Breach; and (ii) this Agreement has not been terminated for any reason other than the occurrence of the Effective Date, the Company shall (and shall procure that any relevant member of the Group shall), at its own cost (to the extent covered by any insurance):

(a) continue to defend the LN Litigation for so long as the litigation remains pending against a member of the Company or current or former officers of the Company;

(b) bear the costs of any judgment or settlement of the LN Litigation (unless a judgment against any defendant finds that such defendant committed an act of wilful misconduct or fraud);

(c) not enter into any settlement with respect to the LN Litigation that contains any admission of liability, without the prior written consent of the defendant to whom such admission relates; and

(d) use its reasonable endeavours to update the Sponsor (or the Sponsor's advisors), on the progress and status of the LN Litigation and to inform them, as soon as reasonably practicable, of any key milestones and key milestone dates (including, but not limited to) any court hearings (or similar) to be held in connection with the LN Litigation, and to provide information relating to the LN Litigation as soon as reasonably practicable upon receiving a reasonable request from the Sponsor or its advisors; *provided* that the Company may withhold any information to the extent it reasonably believes that providing such information to the Sponsor or the Sponsor's advisors could impair the Company's evidentiary privileges. It is understood that all defendants in the LN Litigation shall have the right to enforce this Subsection as third party beneficiaries of the same.

2.4 Provided that: (i) there has been no Sponsor Material Breach; (ii) this Agreement has not been terminated for any reason other than the occurrence of the Effective Date; and (iii) CIT Bank, N.A. provides any necessary consents, the Company shall (or shall procure that the relevant member of the Group shall) discharge in full all amounts owed to the Sponsor and/or Affiliate or Related Entity of the Sponsor (or the nominee thereof) under the CIT Facility upon the earlier of:

(a) the Effective Date; and

(b) as and when they fall due in accordance with the terms of the CIT Facility.

2.5 The Company and the Consenting Creditors agree, provided that: (i) there has been no Sponsor Material Breach; and (ii) this Agreement has not been terminated for any reason other than the occurrence of the Effective Date, that:

(a) releases substantially in the form appended at Schedule 2 (*Mutual Release*) shall be granted by them on the Effective Date to the Released Persons (as defined in the Mutual Release);

(b) the Company shall pay (or shall procure that another member of the Group shall pay): (i) the Agreed Fees which have been duly invoiced no later than five (5) Business Days prior to the Effective Date, on the Effective Date; and (ii) all other Agreed Fees which have been duly invoiced after the Effective Date, no later than ten (10) Business Days after such Agreed Fees have been duly invoiced;

(c) the Company shall fund Evergreen Skills Lux S.à r.l. ("**ESL**") to pay (or shall procure that another member of the Group shall fund ESL to pay) the Group Audit Fees upon the completion of Ernst & Young's work related to the audit and report of the audit on Evergreen Skills Top Holding Lux S.à r.l. (which audit and report are conducted and issued, respectively, on a Group-wide basis) for the financial year ending 31 January 2020; and

(d) the Company shall pay (or shall procure that another member of the Group shall pay) the Replacement Agent Fees in accordance with terms mutually agreed between the Company and Wilmington Savings Fund Society, in its capacity as successor agent under the First Lien Credit Agreement and Second Lien Credit Agreement. Any amounts payable pursuant to these sub-clauses 2.5(c)-(d) are expressly excluded from the Agreed Fees.

2.6 The Sponsor and the Evergreen Entities undertake to the Company and the Consenting Creditors that from the date of this Agreement until this Agreement is duly terminated:

(a) they shall procure that ESL takes all steps necessary to facilitate the consensual implementation of the Restructuring Transactions including, but not limited to authorising, approving and transferring:

(i) the shares in the Company; and

(ii) the Intercompany Note, dated April 28, 2014 between the Company and ESL,

in each case as required to give effect to the relevant Restructuring Transaction as notified to ESL no later than five (5) Business Days prior to the Effective Date. Subject in all respects to sub-clause 2.2(c), the Company, the Sponsor and the Sponsor Affiliates will use their reasonable efforts to co-operate to make the Restructuring Transactions, including the steps set out at sub-clauses 2.6(a)(i) and 2.6(a)(ii), tax-efficient for the Sponsor;

(b) they shall not commit a Sponsor Material Breach;

(c) they shall not (and they shall procure that no relevant Affiliate, Related Entity nor any Sponsor Representative shall) prevent or otherwise limit any holding company of the Company including, but not limited to, ESL from taking any step necessary to facilitate the consensual implementation of the Restructuring Transactions;

(d) they shall (and they shall procure that any relevant Affiliate, Related Entity and Sponsor Representative shall) provide the Company and its advisors access to: (i) all service providers of the Evergreen Entities' including, without limitation, to accountants; (ii) all necessary documentation and information relating to the Evergreen Entities, including, without limitation, to company records, as may be reasonably required to facilitate and complete the wind-down of the Evergreen Entities within 6 months and 10 days of the Effective Date;

(e) they shall (and they shall procure that any relevant Affiliate, Related Entity and Sponsor Representative shall) instruct and direct all applicable, agents, employees and other service providers to complete all necessary steps, including, without limitation: (i) obtaining all consents and signatures; (ii) providing any necessary information and documents in a timely

manner; and (iii) finalising any applicable financial accounts and tax returns, as may be reasonably required to facilitate and complete the wind-down of the Evergreen Entities within 6 months and 10 days of the Effective Date;

(f) they shall not direct any administrative agent or collateral agent (as applicable) under the CIT Facility to take any action inconsistent with Sponsor's obligations under this Agreement, and, if any administrative agent or collateral agent takes any action inconsistent with such obligations under this Agreement, they shall request that and use their commercially reasonable efforts to exercise any applicable contractual rights under the CIT Facility in order to cause such administrative agent or collateral agent to cease, withdraw, and refrain from taking any such action;

(g) they shall support and take all actions reasonably necessary or reasonably requested by the Company to facilitate the Restructuring Transactions within the timeframes contemplated by the Restructuring Support Agreement;

(h) they shall timely vote or cause to be voted all of its Claims and Interests (held by them now or in the future), to accept the Plan by delivering or causing to be delivered its duly authorized, executed, and completed ballot or ballots, and consent to and, if applicable, not opt out of, the releases set forth in the Plan against each Released Party on a timely basis, and, in any event, within three (3) Business Days following commencement of the Solicitation;

(i) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring Transactions, they shall negotiate in good faith appropriate additional, or alternative provisions to address any such impediment; and

(j) Notwithstanding the occurrence or existence of any Event of Default, they shall forbear from exercising any rights and remedies under the Loan Documents (as defined in the CIT Facility) and shall remain obligated to, and shall continue to, make credit extensions as Class B Lender to Borrower under the CIT Facility in the ordinary course as if no Event of Default had occurred or is occurring, up until the Effective Date but only to the extent that the Class A Lender continues to make credit extensions as Class A Lender to the Borrower under the CIT Facility as if no Event of Default had occurred or is occurring (it being understood and agreed that the Class B Lender shall not be obligated to make any credit extension on any date to the extent the Class A Lender is not also making a pro rata credit extension on such date). Capitalised terms in this sub-clause 2.6(j) which are not defined in this Agreement shall have the meaning set forth in the CIT Facility.

2.7 The Consenting Creditors hereby undertake to the Sponsor that with effect from the Effective Date, they shall use all their reasonable endeavours to exercise their rights to release and discharge the Evergreen Entities from all present or future, actual or contingent liabilities, obligation, guarantees and security created, evidenced or conferred by, and all claims, actions, suits, accounts and demands arising under the First Lien Credit Agreement and the Second Lien Credit Agreement, in each case, to give effect to the Restructuring Transactions and any restructuring, dissolution or liquidation of the Evergreen Entities (including, but not limited to, the issuing of instructions to the collateral agent, as applicable).

2.8 Each Party hereby covenants and agrees to cooperate with each other in good faith in connection with, and shall exercise reasonable efforts with respect to the pursuit, delivery, implementation, and consummation of, the transactions contemplated by this Agreement. Furthermore, subject to the terms hereof, each of the Parties shall (i) take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, including making and filing any required regulatory filings, and (ii) refrain from taking any action that would frustrate the purposes and intent of this Agreement.

3 LIMITATIONS

Nothing in this Agreement shall:

(a) require any Party to take any action which would breach:

(i) any law or regulation; or

(ii) any order or direction of any relevant court or governmental body,

in each case provided that such breach cannot be avoided or removed by taking reasonable steps;

(b) require any Party to waive or forego the benefit of any applicable legal professional privilege;

(c) restrict, or attempt to restrict, any director or officer of any member of the Group, the Sponsor, any Sponsor Representative, or any Consenting Creditor from complying with any common law, regulatory or legal obligations (including, for the avoidance of doubt, fiduciaries duties), where such action is reasonably likely to result in any officer or director of this entity incurring personal liability or sanction due to a breach of their legal or fiduciary duties or obligations as officer or director of such entity;

(d) require any Party to:

(i) incur any liability or any additional material costs other than as expressly contemplated by this Agreement;

(ii) subject in all respects to Clause 2.4, make any equity, debt or other financing available to any member of the Group, except in the cases of (A) the Consenting Creditors as expressly contemplated by the Restructuring Support Agreement and (B) the Sponsor pursuant to sub-clause 2.6(j) hereof; or

(iii) commence or become party to any litigation, court proceedings, arbitration or similar proceedings; or

(e) prevent any Party from providing debt financing, equity capital or other services (including advisory services) or from carrying on its activities in the ordinary course and providing services to clients.

4 TERMINATION

4.1 Automatic termination

This Agreement will terminate automatically on the Effective Date.

4.2 Termination by agreement

This Agreement may be terminated by the mutual written agreement of the Company, the Sponsor and the Requisite Creditors.

4.3 Termination upon termination of the Restructuring Support Agreement

This Agreement may be terminated at any time by written notice at the election of any of the Requisite Creditors, the Company or the Sponsor if the Restructuring Support Agreement terminates.

4.4 Termination for Sponsor Material Breach

This Agreement may be terminated at any time by written notice at the election of the Requisite Creditors or the Company if a Sponsor Material Breach occurs.

4.5 No termination for own breach

Notwithstanding any other Clause in this Agreement, nothing in this Agreement permits any Party to terminate this Agreement as a result of its own breach of this Agreement.

4.6 Effect of termination

This Agreement will cease to have any further effect on and from the date on which it terminates under this Clause 4, save for:

(a) accrued rights in respect of breaches of this Agreement which occurred before such termination;

(b) the provisions of Clauses 1, 7 and 14 which will remain in full force and effect; and

(c) provided that this Agreement is terminated only as a result of the occurrence of the Effective Date, Clauses 2 and 3 will remain in full force and effect in accordance with their terms.

5 REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to each other Party on the date of this Agreement, by reference to the facts and circumstances existing at that time, that:

(a) it is duly incorporated (if a corporate person) or duly established (in any other case) and validly existing under the laws of its jurisdiction of incorporation or formation;

(b) the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable, subject to any applicable Reservations; and

(c) it and, if applicable, the duly authorised attorney acting on its behalf, has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement.

6 AMENDMENTS, REMEDIES AND WAIVERS

6.1 Amendments and waivers

(a) Subject to sub-clause 6.1(b), any term of this Agreement may be amended or waived with the written consent of each of the Sponsor, the Company and the Requisite Creditors.

(b) An amendment or waiver which imposes a more onerous obligation on any Party or affects any Party disproportionately in comparison to other Parties may not be effected without the consent of that Party.

6.2 Remedies and waivers

(a) No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement.

(b) No election to affirm this Agreement on the part of any Party shall be effective unless it is in writing.

(c) No single or partial exercise of any right or remedy shall prevent any further or other exercise of such right or remedy or of any other right or remedy.

(d) The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

7 SPECIFIC PERFORMANCE

Without prejudice to any other remedy available to any Party, the obligations of each Party under this Agreement may, subject to applicable law, be the subject of specific performance by the relevant Parties. Each Party acknowledges that damages are not an adequate remedy for any breach of its obligations under this Agreement.

8 PARTIES' RIGHTS AND OBLIGATIONS

8.1 The obligations of each Party under this Agreement are separate and independent obligations. Failure by a Party to perform its obligations under this Agreement shall not affect the obligations of any other Party under this Agreement. No Party is responsible for the obligations of any other Party under this Agreement.

8.2 The rights of each Party under or in connection with this Agreement are separate and independent rights. Each Party may separately and independently enforce its rights under this Agreement.

9 SUCCESSORS AND ASSIGNS

9.1 Each Consenting Creditor agrees that, for the duration of this Agreement, applicable to such Consenting Creditor, such Consenting Creditor shall not sell, transfer, loan, issue, pledge, hypothecate, assign, or otherwise dispose of (each, a "**Transfer**"), directly or indirectly, in whole or in part, any of its Claims or Interests or any option thereon (including grant any proxies, deposit any Claims or Interests into a voting trust, or enter into a voting agreement with respect thereto), unless the transferee thereof either (i) is a Consenting Creditor or (ii) prior to such Transfer, agrees in writing for the benefit of the Parties to become a Consenting Creditor and to be bound by all of the terms of this Agreement applicable to Consenting Creditors (including with respect to any and all Claims or Interests it already may hold against or in the Company prior to such Transfer) by executing a joinder agreement, a form of which is annexed hereto as Schedule 3 (the "Joinder Agreement"), and delivering an executed copy thereof within three (3) Business Days following such execution, to Weil, Gotshal & Manges LLP ("**Weil**"), as counsel to the Company, and the Consenting Creditor Counsel, in which event (A) the transferee (including the Consenting Creditor transferee, if applicable) shall be deemed to be a Consenting Creditor hereunder with respect to such transferred Claims or Interest and (B) the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred Claims or Interests. Each Consenting Creditor agrees that any Transfer of any Claims or Interests that does not comply with the terms and procedures set forth herein shall be deemed void ab initio, and the Company and each other Consenting Creditor shall have the right to enforce the voiding of such Transfer. Notwithstanding anything to the contrary herein, a Consenting Creditor may Transfer its Claims or Interests to an entity that is acting in its capacity as a Qualified Marketmaker without the requirement that the Qualified Marketmaker become a Party; provided, however, that (i) such Qualified Marketmaker must Transfer such right, title or interest by five (5) Business Days prior to the Voting Deadline and (ii) the transferee of such Company Claims or Interests from the Qualified Marketmaker shall become a Consenting Creditor hereunder and comply in all respects with the terms of this Agreement (including executing and delivering a Joinder) and (iii) notwithstanding anything to the contrary in this Agreement, to the extent that a Consenting Creditor, acting in its capacity as a Qualified Marketmaker, acquires any Company Claims or Interests from a holder of such claims that is not a Consenting Creditor, such Qualified Marketmaker may Transfer such Company Claims or Interests without the requirement that the transferee be or become a Consenting Creditor.

9.2 To the extent any Consenting Creditor (i) acquires additional Claims or Interests or (ii) Transfers any Claims or Interests, then, in each case, each such Consenting Creditor shall promptly (in no event less than three (3) Business Days following such acquisition or transaction) notify Weil and Consenting Creditor Counsel and each such Consenting Creditor agrees that such additional Claims or Interests shall be subject to this Agreement.

9.3 Notwithstanding any other provision of this Agreement, any Transfer conducted in compliance with the terms of this Agreement must also be conducted in accordance with any relevant provisions of the Restructuring Support Agreement, otherwise such Transfer shall be deemed void ab initio, and the Company and each other Consenting Creditor shall have the right to enforce the voiding of such Transfer.

9.4 For purposes of Clauses 9.1 and 9.2 hereof, "Business Day" shall bear the meaning ascribed to it in the Restructuring Support Agreement.

10 COUNTERPARTS

This Agreement may be executed in any number of counterparts, which may be delivered by electronic mail in portable document format (PDF). This has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

11 PARTIAL INVALIDITY

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction:

(a) neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction will in any way be affected or impaired; and

(b) the invalid provision will be deemed to be replaced with a legal provision that is as close as possible to the original.

12 ENTIRE AGREEMENT

12.1 This Agreement and, with respect to the Company and the Consenting Creditors members, the Restructuring Support Agreement, set out the Parties' entire understanding of the Restructuring Transactions and supersede any previous agreement between any of the Parties with respect to the Restructuring Transactions (save for the Restructuring Support Agreement, which shall continue to be binding on the parties thereto).

12.2 The Company and the Sponsor shall and shall procure that their Affiliates and/or Related Entities (other than in the case of the Sponsor, the Company and its subsidiaries) treat all terms of the reimbursement agreement dated June 24, 2019 (the "**Reimbursement Agreement**") as waived by all parties from and with effect from the date hereof until either: (i) the Effective Date occurring, in which case the Reimbursement Agreement shall be treated as terminated and without effect; or (ii) this Agreement being terminated for any reason other than the occurrence of the Effective Date, in which case the waiver of the terms of the Reimbursement Agreement shall cease to apply with effect from such termination notwithstanding anything contained in this Agreement to the contrary.

13 NOTICES

13.1 Any communication to be made under or in connection with this Agreement shall be made in writing in English and may be made by letter or electronic mail.

13.2 The contact details of the Parties for all communications under or in connection with this Agreement are as identified below, or any substitute contact details as a Party may notify the other Parties by not less than five (5) Business Days' notice:

(a) the Consenting Creditors:

(i) if to a Consenting First Lien Lender or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Address: Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166

Attention: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com)
Steven A. Domanowski, Esq. (sdomanowski@gibsondunn.com)
Matthew J. Williams, Esq. (mjwilliams@gibsondunn.com)
Christina M. Brown, Esq. (christina.brown@gibsondunn.com)

(ii) if to a Consenting Second Lien Lender, or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Address: Milbank LLP
55 Hudson Yards
New York, NY 10001

Attention: Evan Fleck (efleck@milbank.com)
Sarah Levin (slevin@milbank.com)
Benjamin Schak (bschak@milbank.com)

(b) the Company:

Address: Pointwell Limited
2nd Floor 1-2 Victoria Buildings
Haddington Road, Dublin 4, Ireland D04XN32

Attention: Greg Porto (Greg.Porto@skillsoft.com)

With a copy to: Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Attention: Gary Holtzer, Esq. (Gary.Holtzer@weil.com)
Andrew Wilkinson, Esq. (Andrew.Wilkinson@weil.com)
Robert Lemons, Esq. (robert.lemons@weil.com)
Katherine T. Lewis, Esq. (katherine.lewis@weil.com)

(c) the Sponsor:

Address: Warwick Court, Paternoster Square, London, United Kingdom EC4M 7DX

Attention: Tom Patrick (tom.patrick@charterhouse.co.uk)
William Trevelyan Thomas (will.trevelyanthomas@charterhouse.co.uk)

13.3 Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

(a) if by letter:

(i) delivered in person, when it has been left at the relevant address;

(ii) sent by post, five (5) Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address; or

(iii) sent by international priority courier delivery, three (3) days after delivery to such courier,

and, if a particular department or individual is specified as part of its address details provided above, if addressed to that department or individual; and

(b) if by e-mail, when received in legible form.

14 GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL

14.1 This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

14.2 The Bankruptcy Court shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement. The Parties agree that the Bankruptcy Court is the most appropriate and convenient courts to settle disputes relating to the obligations arising out of or in connection with this Agreement and/or a dispute regarding the existence, validity or termination of this Agreement and accordingly no Party will argue to the contrary.

14.3 EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective duly authorized officers, solely in their respective capacity as officers of the undersigned and not in any other capacity, as of the date first set forth above.

COMPANY:

POINTWELL LIMITED

By: _____

Name: Ronald Hovsepian
Title: Director

CONSENTING CREDITOR

[redacted]

By: _____

Name: Jens Hoellermann Simon Barnes

Title: managers

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:_____
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Jens Hoellermann Simon Barnes

Title: managers

Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:_____
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

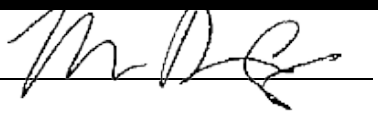
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

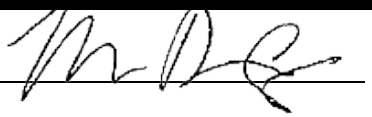
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

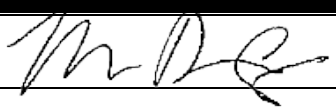
and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Chris Barris

Title: Portfolio Manager

Notice Address:
200 Park Avenue, New York, NY 10166, US

and

160 Queen Victoria Street, London EC4V 4LA, UK

Fax:
Attention: Chris Barris, Amos Ouattara and Christopher Schubert
Email: chris.barris@alcentra.com / amos.ouattara@alcentra.com / christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: DocuSigned by: Eric Larsson
(for Alcentra Limited as investment manager)

Name: Eric Larsson

Title: Mangaging Director

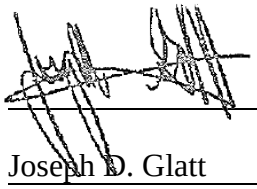
Notice Address: 160 Queen Victoria street, London EC4V 4LA

Fax:
Attention: Amos Ouattara and Christopher Schubert
Email: amos.ouattara@alcentra.com / Christopher.schubert@alcentra.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

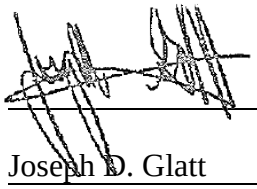
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

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Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

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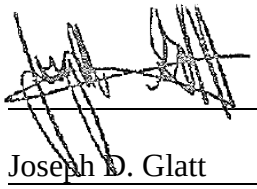
its collateral manager

By: 

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Title: Vice President

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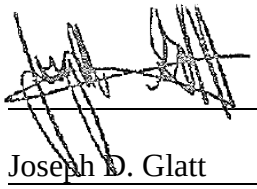
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

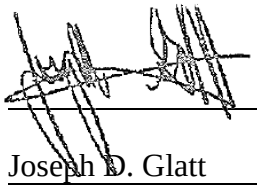
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

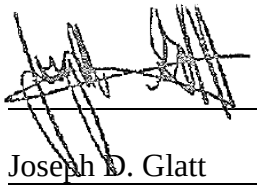
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

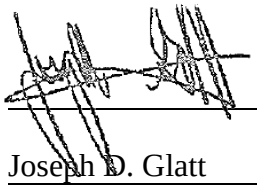
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

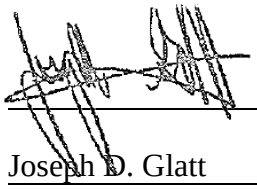
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo TRF MP Management, LLC,
its investment manager

By: 

Name: Joseph D. Glatt

Title: Vice President

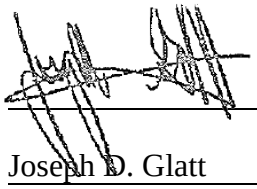
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its portfolio manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

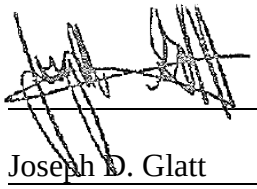
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC, Management Series 2,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

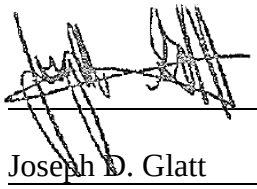
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

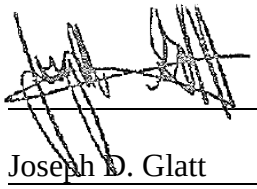
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

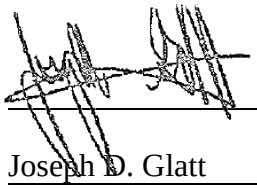
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo ST Fund Management LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

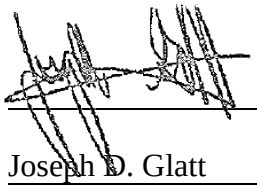
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Chief Legal Officer

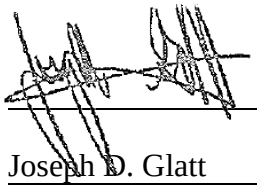
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Redding Ridge Asset Management LLC,
its asset manager

By: 

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Title: Chief Legal Officer

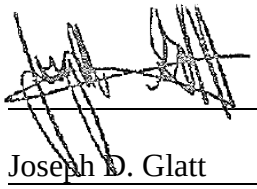
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management, LLC,
its investment adviser

By: 

Name: Joseph D. Glatt

Title: Vice President

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

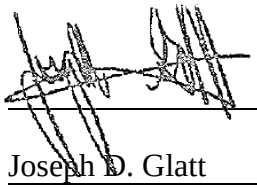
Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

Title: Vice President

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

[redacted]

By: Apollo Credit Management (CLO), LLC,
its collateral manager

By: 

Name: Joseph D. Glatt

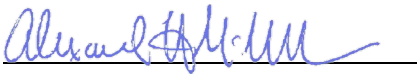
Title: Vice President

Notice Address:
9 West 57th Street, 37th Floor
New York, NY 10019

Fax: _____
Attention: _____
Email: jglatt@apollo.com

CONSENTING CREDITOR

Benefit Street Partners LLC, on behalf of certain managed funds and accounts

By: 

Name: Alex McMillan

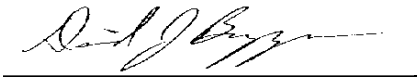
Title: Chief Compliance Officer

Notice Address:
9 W 57th St, suite 4920
New York, NY 10019

Fax: n/a
Attention: Alex McMillan
Email: a.mcmillan@benefitstreetpartners.com and j.rodbard@benefitstreetpartners.com

CONSENTING CREDITOR

DDJ Capital Management, LLC,
in its capacity on behalf of the
Consenting Creditors that it manages and/or advises

By: 

Name: David J. Breazzano

Title: President

Notice Address:

DDJ Capital Management, LLC
130 Turner Street
Building #3, Suite 600
Waltham, MA 02453

Fax: (781) 419-9189
Attention: Legal Department
Email: legal@ddjcap.com

CONSENTING CREDITOR

[redacted]
By: Eaton Vance Management
as Portfolio Manager

[redacted]
By: Eaton Vance Management
as Investment Sub-Advisor

[redacted]
By: Calvert Research and Management

[redacted]
By: Eaton Vance Management
Portfolio Manager

[redacted]
By: Eaton Vance Management
As Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Eaton Vance Management as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Eaton Vance Management as Investment Advisor

[redacted]
By: Eaton Vance Management as Investment Advisor

[redacted]
By: Eaton Vance Management as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

[redacted]
By: Boston Management and Research
as Investment Advisor

[redacted]
By: Boston Management and Research
as Investment Advisor

[redacted]
By: Eaton Vance Management
as Investment Advisor

By: Michael B. Botthof

Name: Michael B. Botthof

Title: Vice President

Notice Address:

2 International Place
Boston MA 02110

Attention: Raymond Peepgass
Email: rpeepgass@eatonvance.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]
By: PGIM, Inc., as Collateral Manager

By: _____

Name: Ian Johnston

Title: Vice President

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Attention: Ian Johnston
Email: Ian.johnston@pgim.com

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Title: Vice President

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Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: _____

Name: Ian Johnston

Title: Vice President

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Manager

By: _____

Name: Ian Johnston

Title: Vice President

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

[redacted]

By: PGIM, Inc., as Investment Advisor

By: Ian Johnston

Name: Ian Johnston

Title: Vice President

Notice Address:
655 Broad Street, 7th Floor
Newark, New Jersey 07102

Fax: (973) 367-8047
Attention: Ian Johnston
Email: Ian.johnston@pgim.com

CONSENTING CREDITOR

Symphony Asset Management LLC, on behalf of certain managed funds and accounts as Investment Manager, General Partner, Sub-Advisor and Collateral Manager

By: Judith MacDonald

Name: Judith MacDonald

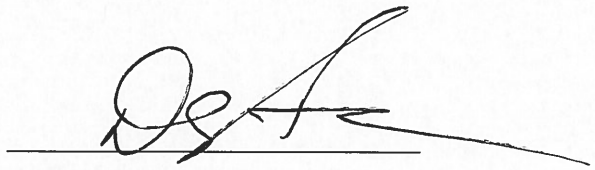
Title: Authorized Signatory

Notice Address:

Fax: 415-291-9635
Attention: Loan Operations
Email: loan.ops@symphonyasset.com

CONSENTING CREDITOR

VOYA INVESTMENT MANAGEMENT CO. LLC
on its own behalf and, as applicable, on behalf of its affiliates and managed or sub-advised funds and accounts

By: 

Name: Daniel A. Norman

Title: Senior Managing Director

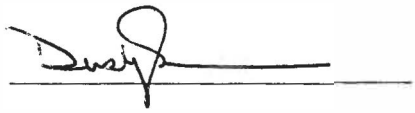
Notice Address:

Voya Investment Management
7337 East Doubletree Ranch Road
Scottsdale, Arizona, USA 85258

Fax: (480) 477-2607
Attention: Jake Jamison, Vice President for Legal Affairs
Email: jake.jamison@voya.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Dushy Selvaratnam

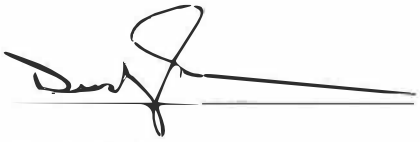
Title: Chief Operating Officer

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Dushy Selvaratnam

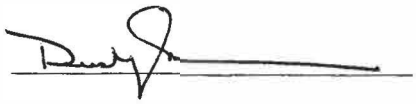
Title: Chief Operating Officer

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

[redacted]

By: 

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Title: Chief Operating Officer

Notice Address:

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Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Dushy Selvaratnam

Title: Chief Operating Officer

Notice Address:

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Name: Dushy Selvaratnam

Title: Chief Operating Officer

Notice Address:

Fax: +44 (0) 20 7681 3844
Attention: Operations Department
Email: operations@lodbrokcapital.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Quentin Leveque

Title: Director

By: _____

Name: Besar Muhameti

Title: Director

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Quentin Leveque

Title: Manager

By: _____

Name: Besar Muhameti

Title: Manager

Notice Address:

Fax: _____
Attention: Besar Muhameti
Email: eqtcredit@eqtfunds.com
eqtcreditmidoffice@eqtpartners.com

CONSENTING CREDITOR

[redacted]

By: 

Name: Ashwin Krishnan

Title: Managing Director

Notice Address:

Fax: +1 212 507 4216
Attention: Ashwin Krishnan
Email: Ashwin.krishnan@morganstanley.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: B. B

Name: Brad Benson

Title: VP – Portfolio Management

By:

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax:
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: B. B

Name: Brad Benson

Title: VP – Portfolio Management

By:

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

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CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: B. Benson

Name: Brad Benson

Title: VP – Portfolio Management

By: [signature]

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax:
Attention: Brad Benson
Email: bbenson@signature.ci.com

CONSENTING CREDITOR

[redacted]

By: _____

Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

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By: _____

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CONSENTING CREDITOR

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Name: Brad Benson

Title: VP – Portfolio Management

By: _____

Name: Carlton Ling

Title: VP – Portfolio Management

Notice Address:

Fax: _____
Attention: Brad Benson
Email: bbenson@signature.ci.com

SPONSOR:

CHARTERHOUSE GENERAL PARTNERS (IX) LIMITED, acting in its capacity as general partner of CHARTERHOUSE EVERGREEN LP

By: _____

Name: T. PATRICK
Title: DIRECTOR

EVERGREEN ENTITIES:

EVERGREEN SKILLS INTERMEDIATE LUX S.À R.L.

By: _____

Name: Eva Carroll
Title: Manager B

EVERGREEN SKILLS LUX S.À R.L.

By: _____

Name: Eva Carroll
Title: Manager B

EVERGREEN SKILLS TOP HOLDING LUX S.À R.L.

By: _____

Name: Eva Carroll
Title: Manager B

EVERGREEN SKILLS HOLDING LUX S.À R.L.

By: _____

Name: Eva Carroll
Title: Manager B

SCHEDULE 1

CONSENTING CREDITORS

Consenting Creditors

Each, as applicable, as lenders, investment advisors or managers, or sub-advisors or sub-managers, or other similar capacities, together with certain affiliates and managed, advised, sub-managed, or sub-advised funds and accounts

1. Alcentra NY LLC & Alcentra Limited
2. Apollo Management Holdings, L.P.
3. Benefit Street Partners, LLC
4. DDJ Capital Management, LLC
5. Eaton Vance Management & Boston Management and Research
6. EQT Partners UK Advisors LLP
7. Lodbrok Capital LLP
8. MS Capital Partners Adviser Inc.
9. PGIM, Inc.
10. Signature Global Asset Management, a division of CI Investment Inc.
11. Symphony Asset Management LLC
12. Voya Investment Management Co. LLC

SCHEDULE 2

MUTUAL RELEASE

MUTUAL RELEASE

_____ 2020

between

POINTWELL LIMITED

and

THE CONSENTING CREDITORS

and

CHARTERHOUSE GENERAL PARTNERS IX LIMITED

and

EVERGREEN SKILLS INTERMEDIATE LUX S.À R.L.

and

EVERGREEN SKILLS LUX S.À R.L.

and

EVERGREEN SKILLS TOP HOLDING LUX S.À R.L

and

EVERGREEN SKILLS HOLDING LUX S.À R.L

THIS MUTUAL RELEASE is made as of _____ 2020 among the following parties:

(1) **THE CONSENTING CREDITORS** (as defined below) listed in Schedule 1;

(2) **POINTWELL LIMITED (**the **"Company**");

(3) **CHARTERHOUSE GENERAL PARTNERS IX LIMITED** (the "**Sponsor**");

(4) **EVERGREEN SKILLS INTERMEDIATE LUX S.À R.L.**;

(5) **EVERGREEN SKILLS LUX S.À R.L.**;

(6) **EVERGREEN SKILLS TOP HOLDING LUX S.À R.L.**; and

(7) **EVERGREEN SKILLS HOLDING LUX S.À R.L.**

(each, a "**Party**", and together, the "**Parties**").

NOW, THEREFORE, in consideration of the mutual releases herein contained and for other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged), the Parties hereto agree as follows:

1. DEFINITIONS

In this Agreement unless otherwise defined herein, terms shall have the meaning given to them in the Restructuring Support Agreement:

"**Acceding Released Party**" means a person who accedes to this Agreement in accordance with the Mutual Release Joinder Agreement;

"**Affiliate**" means with respect to a person, any other person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such person, provided that: (i) for the purposes of this definition of Affiliate the term "control" means the possession, directly or indirectly, through one or more intermediaries, of: (A) the power to direct or cause the direction of the management and policies of a person; or (B) the right to more than 50 per cent. of the profits of a person, in each case whether through the ownership of shares, interests and/or other securities of any kind, by contract or otherwise; (ii) in respect of a limited partnership or a fund, any general partner, investment manager, investment adviser, nominee or trustee of such limited partnership or fund, shall be deemed to be an Affiliate of any member of the Sponsor and if applicable, an Acceding Released Party; (iii) a portfolio company of any fund or account managed or advised by the Sponsor and if applicable, an Acceding Released Party, other than the Company or any company in the Group, shall not be deemed to be an Affiliate of any member of the Sponsor and if applicable, an Acceding Released Party; and (iv) any person which is deemed to be an Affiliate of the Sponsor and if applicable, an Acceding Released Party, principally as a result of being managed and/or advised by the Sponsor and if applicable, an Acceding Released Party, shall only be an "Affiliate" for so long as it continues to be managed and/or advised in such manner;

"**Agreement**" means this Mutual Release;

"**Ad Hoc Groups**" means the two ad hoc groups of lenders to the Company, one represented by Milbank LLP and the other by Gibson, Dunn & Crutcher LLP;

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London, Dublin and New York;

"**Chapter 11 Cases**" means cases commenced by the Company and certain of its direct and indirect subsidiaries pursuant to chapter 11 of title 11 of the United States Code and the terms of the Restructuring Support Agreement or a Replacement RSA;

"**Claim**" means any action, suit, claim, right, demand, set-off, investigation or proceeding commenced or threatened (including any action, suit, claim, right, demand, set-off, investigation or proceeding to preserve or enforce rights) at any time, in any jurisdiction, whether known or unknown, whether foreseen or unforeseen, whether in law, in equity or otherwise, and whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured;

"**Consenting Creditors**" means the Consenting First Lien Lenders and the Consenting Second Lien Lenders;

"**Consenting First Lien Lenders**" means, collectively, the lenders party to the First Lien Credit Agreement that are listed at Schedule 1 and are signatories to this Agreement or Acceding Released Parties (together with their respective successors and permitted assigns) (the "**First Lien Lenders**");

"**Consenting Second Lien Lenders**" means, collectively, the lenders party to the Second Lien Credit Agreement that are listed at Schedule 1 and are signatories to this Agreement or Acceding Released Parties (together with their respective successors and permitted assigns) (the "**Second Lien Lenders**");

"**Control**", "**controlled by**" and "**under common control with**" shall mean the power, direct or indirect, to (a) vote on more than 50 per cent. of the securities having ordinary voting power for the election of directors of such person, or (b) direct or cause the direction of the management and policies of such person whether by contract or otherwise;

"**Evergreen Entities**" means, collectively, Evergreen Skills Intermediate Lux S.à r.l., Evergreen Skills Lux S.à r.l., Evergreen Skills Top Holding Lux S.à r.l. and Evergreen Skills Holding Lux S.à r.l.;

"**Existing AR Credit Agreement**" means the credit agreement dated as of December 20, 2018, among Skillsoft Receivables Financing LLC, a Delaware Limited Liability Company, the lenders party thereto and CIT Bank, N.A., as administrative agent, collateral agent and accounts bank;

"**First Lien Credit Agreement**" means the term loan facility dated April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) between, among others, the Company, Evergreen Skills Intermediate Lux S.à r.l, Evergreen Skills Lux S.à r.l, Skillsoft Canada Ltd, Skillsoft Corporation and the lenders party thereto from time to time;

"**Group**" means the Company and any of its direct and indirect subsidiaries from time to time;

"**Liability**" or "**Liabilities**" means any present or future obligation, liability, Claim, remedy or damages, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, in any jurisdiction, including without limitation, any derivative claims and avoidance actions,

the payment of money, performance of an act or obligation, or otherwise, whether in respect of principal, interest or otherwise, whether actual or contingent, whether fixed or undetermined, whether owed jointly or severally and whether owed as principal, surety or in any capacity whatsoever, and in any manner whatsoever, including any amount which would constitute such a liability but for any discharge, non-provability, unenforceability or non-allowance of the same in any insolvency or other proceedings, including any Claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other Liability falling within this definition, and any Claim for damages or restitution;

"**Mutual Release Joinder Agreement**" means a joinder agreement in or substantially in the form set out in Schedule 2;

"**Related Entity**" in relation to an entity (the "**First Entity**"), means an entity which is managed or advised by the same investment manager or investment adviser as the First Entity (or its Affiliates) or, if it is managed by a different investment manager or investment adviser, an entity whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the First Entity (or its Affiliates);

"**Related Parties**" of a person or entity means such person or entity's parent, direct and indirect subsidiaries directly or indirectly controlled by such person or entity, assignees, transferees, representatives, principals, agents, officers or directors;

"**Released Persons**" means (i) each Party, including if applicable, an Acceding Released Party and each of their respective current and former Affiliates, Related Entities, direct and indirect subsidiaries, members, managers, equity owners, managed entities and investment managers; and (ii) each of their (and, for the avoidance of doubt, the Ad Hoc Groups') respective current and former employees, professionals, consultants, directors and officers (in each case in their respective capacities as such), but excluding any portfolio company of any fund or account managed or advised by the Sponsor, other than the Company or any company in the Group;

"**Releases**" has the meaning given to such term in Clause 3(a) (*Releases*);

"**Replacement RSA**" means any agreement executed after the date of the Restructuring Support Agreement between, among others, the Company and the Consenting Creditors in connection with a restructuring (as defined therein) as amended, restated, supplemented or otherwise from time to time a copy of which has been delivered by the Company to the Sponsor on or before the date of this Agreement; *provided, however,* that the Replacement RSA shall provide for treatment of any interests held by the Sponsor or the Evergreen Entities equivalent or superior to the treatment provided to the Sponsor and the Evergreen Entities in the Restructuring Support Agreement and that the Replacement RSA shall not otherwise cause any material adverse effect to the Sponsor or the Evergreen Entities absent the Sponsor's prior written consent;

"**Restructuring**" means certain transactions agreed between the Consenting Lenders and the Group in furtherance of a global restructuring of the Company's capital structure;

"**Restructuring Support Agreement**" means the agreement dated as of June ___, 2020, between, among others, the Company and the Consenting Creditors in connection with the Restructuring (as

defined therein) as amended, restated, supplemented or otherwise from time to time a copy of which has been delivered by the Company to the Sponsor on or before the date of this Agreement;

"**Second Lien Credit Agreement**" means the term loan facility dated April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) between, among others, the Company, Evergreen Skills Intermediate Lux S.à r.l, Evergreen Skills Lux S.à.r.l, Skillsoft Canada Ltd, Skillsoft Corporation and the lenders party thereto from time to time; and

"**Subsidiary**" means, with respect to a person (the Company), any other person who is controlled by the Company.

2. CONSTRUCTION

(a) In this Agreement, unless the contrary intention appears, a reference to:

(i) this Agreement includes all schedules, appendices and other attachments hereto;

(ii) an agreement, deed or other document is a reference to such agreement, deed or other document as amended and an amendment includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and as amended will be construed accordingly;

(iii) a person includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;

(iv) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;

(v) "include" or "including" shall mean include or including without limitation;

(vi) the singular includes the plural (and vice versa);

(vii) a Clause or a Schedule is a reference to a clause or a schedule to this Agreement;

(viii) headings to Clauses and Schedules are for ease of reference only and shall not affect the construction or interpretation of this Agreement.

(b) The headings and recitals in this Agreement do not affect its interpretation.

3. RELEASES

(a) Subject to paragraph (b) below, the Parties hereby agree that, immediately upon the execution of this Agreement, each Party: (i) irrevocably and unconditionally releases, waives and discharges each Released Person from; and (ii) agrees not to take (and shall procure that none of its Related Parties, its Affiliates or Related Parties of its Affiliates takes, and shall not in any way assist any third party in taking) any proceedings in respect of, in each case, any and all Claims and Liabilities arising out of or in connection with any steps, acts or omissions, transactions, or other occurrences or circumstances existing or taking place on or prior to the Effective Date arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Entities, the Parent, the Company or any direct or indirect

subsidiary of the Parent, the First Lien Credit Agreement, the Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of or the events or transactions giving rise to any claim against or equity interest in the Company that is treated under the Plan, or the negotiation, formulation or preparation of the Definitive Documents for the Restructuring or related agreements, instruments or other documents (the "**Releases**").

(b) The Releases shall not apply to any Claim or Liability:

(i) which exists under or relates to a breach of this Agreement, Plan, or any agreements entered into by any of the Parties in connection with the Plan;

(ii) which is caused by or relates to intentional fraud or wilful misconduct of that Released Person; or

(iii) for the avoidance of doubt, which cannot be waived or released due to restrictions under applicable law provided that each Party takes all necessary action to give effect to the Releases provided for in this Agreement, including, but not limited to, pursuant to Clause 4 (*Further Assurance*).

(c) Without prejudice to paragraph (a) above and subject to paragraph (b), on and from the Effective Date, each Party undertakes to the Released Persons and any entity within the Group that it will not commence or continue any Claim (other than Claims to which paragraph (b) above applies) anywhere in the world or instruct, direct, authorize, assist or encourage any other person to commence or continue any Claim (other than Claims to which paragraph (b) above applies) against the Released Person and/or any other entity in the Group in relation to or in connection with or in any way arising out of paragraph (a) above, or otherwise to assert any such Claim against the Released Persons and any entity within the Group.

(d) By executing this Agreement, the Consenting Creditors, in their capacity as putative shareholders of the Group with effect from the Effective Date, hereby approve and ratify (as applicable) entry into this Agreement or accession thereto (as applicable) by Company, and approve entry into any associated board and/or shareholder resolution in connection therewith.

4. FURTHER ASSURANCE

At the request of a Party, the other Parties shall execute and deliver such documents, and do such things, as may reasonably be required by any of the Parties to give full effect to this Agreement provided that the requesting Party shall pay the other Parties' reasonable costs of complying with such request.

5. THIRD PARTY RIGHTS

Each Released Person may enforce the terms of this Agreement notwithstanding it not being a party to this Agreement. No other person who is not a Party to this Agreement has any rights to enforce any term of this Agreement. However, the terms of this Agreement may be amended by the Parties hereto without the consent of any person who is not a Party.

6. CONFIDENTIALITY

(a) Subject to paragraph (b) below, each of the Parties shall treat as confidential and not disclose to any other person:

(i) details of the negotiations relating to this Agreement;

(ii) this Agreement or any part thereof; or

(iii) the existence of or subject matter of this Agreement.

(b) Paragraph (a) above shall not prohibit disclosure or use of any information if and to the extent:

(i) the disclosure or use is required or requested by law, any competent court, governmental body, any industry or regulatory body or by any recognised stock exchange including in connection with or to facilitate the Restructuring;

(ii) the disclosure is to any of its Affiliates or Related Entities;

(iii) the disclosure is made in the Chapter 11 Cases;

(iv) the disclosure is required for the purposes of any proceedings arising out of or in connection with this Agreement;

(v) the disclosure is made to auditors and legal or other professional advisers who need to know such information to discharge their duties, provided that any such person to whom such confidential information is to be given pursuant to this sub-paragraph (iv) is informed in writing of its confidential nature; or

(vi) the information is or becomes publicly available (other than by breach of this Agreement),

provided that prior to disclosure of any information pursuant to sub-paragraph (b)(i) above, reasonable prior written notice must be given (to the extent practicable and legally possible) by the Party disclosing the information to the other Parties, such that: (i) the other Parties have the opportunity to comment on the proposed disclosure; and (ii) the Parties will co-operate to minimise the scope of any such disclosure.

7. SPECIFIC PERFORMANCE

Without prejudice to any other remedy available to any Party, the obligations of each Party under this Agreement may, subject to applicable law, be the subject of specific performance by the relevant Parties. Each Party acknowledges that damages are not an adequate remedy for any breach of its obligations under this Agreement.

8. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument. A signature delivered by facsimile transmission or in PDF format shall be acceptable as an original.

9. PARTIAL INVALIDITY

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction:

(a) neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction will in any way be affected or impaired; and

(b) the invalid provision will be deemed to be replaced with a legal provision that is as close as possible to the original.

10. ENTIRE AGREEMENT

This Agreement and any non-contractual obligations arising out of or in connection with it constitutes the entire agreement between, and understanding of, the Parties with respect to the subject matter of this Agreement and supersedes any prior written or oral agreement(s) or arrangement(s) between the Parties in relation thereto; *provided* that nothing in this Agreement shall diminish or derogate from rights and remedies of any Party or any other Person under the Plan or any order entered in the Chapter 11 Cases.

11. ACCESSION

(a) Within 10 calendar days following the Effective Date, VEP Aggregator LLC, Park Square Capital II S.à r.l., Park Square Capital II Parallel S.à r.l. and Park Square Capital II Supplemental S.à r.l. (together with their respective successors, permitted assigns and permitted transferees) may become a party to this Agreement as an Acceding Released Party upon the delivery to the Company of a duly executed Mutual Release Joinder Agreement.

(b) An Acceding Released Party that becomes party to this Agreement in accordance with the preceding paragraph shall be entitled to the benefit of all the provisions and be bound by all of the obligations contained in this Agreement with effect from the date of such accession as if such person had been an original party to this Agreement.

(c) No other persons other than VEP Aggregator LLC, Park Square Capital II S.à r.l., Park Square Capital II Parallel S.à r.l. and Park Square Capital II Supplemental S.à r.l. (together with their respective successors, permitted assigns and permitted transferees) may become party to this Agreement as an Acceding Released Party or otherwise, unless agreed in advance in writing between the Parties.

12. NOTICES

(a) Any communication to be made under or in connection with this Agreement shall be made in writing in English and may be made by letter or electronic mail.

(b) The contact details of the Parties for all communications under or in connection with this Agreement are as identified below, or any substitute contact details as a Party may notify the other Parties by not less than five (5) Business Days' notice:

(i) the Consenting Creditors:

(A) if to a Consenting First Lien Lender or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Address: Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166

Attention: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com)
Steven A. Domanowski, Esq. (sdomanowski@gibsondunn.com)
Matthew J. Williams, Esq. (mjwilliams@gibsondunn.com)
Christina M. Brown, Esq. (christina.brown@gibsondunn.com)

(B) if to a Consenting Second Lien Lender, or a transferee thereof, to the addresses set forth below such member's signature (or as directed by any transferee thereof), as the case may be, with copies to:

Address: Milbank LLP
55 Hudson Yards
New York, NY 10001

Attention: Evan Fleck (efleck@milbank.com)
Sarah Levin (slevin@milbank.com)
Benjamin Schak (bschak@milbank.com)

(ii) the Company:

Address: Pointwell Limited
2nd Floor 1-2 Victoria Buildings
Haddington Road, Dublin 4, Ireland D04XN32

Attention: Greg Porto (Greg.Porto@skillsoft.com)

With a copy to: Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Attention: Gary Holtzer, Esq. (Gary.Holtzer@weil.com)
Andrew Wilkinson, Esq. (Andrew.Wilkinson@weil.com)
Robert Lemons, Esq. (robert.lemons@weil.com)
Katherine T. Lewis, Esq. (katherine.lewis@weil.com)

(iii) the Sponsor:

Address: Warwick Court, Paternoster Square, London, United Kingdom EC4M 7DX

Attention: Tom Patrick (tom.patrick@charterhouse.co.uk)
William Trevelyan Thomas (will.trevelyanthomas@charterhouse.co.uk)

(c) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

(i) if by letter:

(A) delivered in person, when it has been left at the relevant address;

(B) sent by post, five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address; or

(C) sent by international priority courier delivery, three (3) days after delivery to such courier,

(D) and, if a particular department or individual is specified as part of its address details provided above, if addressed to that department or individual; and

(ii) if by e-mail, when received in legible form.

13. GOVERNING LAW; JURISDICTION; WAIVER OF JURY TRIAL

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without giving effect to the conflict of laws principles thereof.

(b) Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any Party shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York (the "**New York Courts**") and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement or the Restructuring. Each of the Parties agrees not to commence any proceeding relating to this Agreement or the Restructuring except in the New York Courts, other than proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any New York Court. Each of the Parties further agrees that notice as provided in Clause 12 (*Notices*) shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any proceeding arising out of or relating to this Agreement or the Restructuring, (i) any claim that it is not personally subject to the jurisdiction of the New York Courts for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise) and (iii) that (A) the proceeding in any such court is brought in an inconvenient forum, (B) the venue of such proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. Notwithstanding the foregoing, during the pendency of the Chapter 11 Cases, all proceedings contemplated by this Clause 13(b) (*Governing Law; Jurisdiction; Waiver of Jury Trial*) shall be brought in the United States Bankruptcy Court for the District of Delaware.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER

INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Schedule 1 – Consenting Creditors*

Consenting Creditors

* ***Note to draft***: will be same parties as the RSA and the Co-Operation Agreement

Schedule 2 – Joinder Agreement

FORM OF MUTUAL RELEASE JOINDER AGREEMENT

This Joinder Agreement to the Mutual Release, dated as of [●], 2020 (as amended, supplemented, or otherwise modified from time to time, the "**Agreement**"), by and among the Sponsor, the Company and the Consenting Creditors, is executed and delivered by _____ (the "**Acceding Released Party**") as of [●], 2020. Each capitalised term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Annex I (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be an "Acceding Released Party" and a "Party" for all purposes under the Agreement.

2. This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature Page Follows]

IN WITNESS WHEREOF, the Joining Party has caused this Joinder Agreement to be executed as a deed poll as of the date first written above.

SIGNATORIES

SCHEDULE 3

JOINDER AGREEMENT

FORM OF JOINDER AGREEMENT FOR CONSENTING CREDITORS

This Joinder Agreement to the Co-Operation Agreement, dated as of [●], 2020 (as amended, supplemented, or otherwise modified from time to time, the "Agreement"), by and among the Sponsor, the Company and the Consenting Creditors, is executed and delivered by _____ (the "Joining Party") as of [●], 2020. Each capitalised term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1 The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Annex I (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be a "Consenting Creditor" and a "Party" for all purposes under the Agreement and with respect to any and all Claims and Interests held by such Joining Party.

2 This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature Page Follows]

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as a deed poll as of the date first written above.

CONSENTING CREDITOR

By: _____

Name: _____

Title: _____

Notice Address:

Fax: _____
Attention: _____
Email: _____

EXHIBIT "J"

Compendium of Materials Filed in the Chapter 11 Cases

(*See attached*)

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

COMPENDIUM OF MATERIALS FILED IN THE CHAPTER 11 CASES

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
1155 René-Lévesque Blvd. West
41st Floor
Montréal (Québec) H3B 3V2
CANADA

Me Joseph Reynaud
Direct : 514 397 3019
Email : jreynaud@stikeman.com

Me Vincent Lanctôt-Fortier
Direct : 514 397 3176
Email : vlanctotfortier@stikeman.com

Me Simon Ledsham
Direct : 514 397 3385
Email : sledsham@stikeman.com

Counsel for the Applicant

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

COMPENDIUM OF MATERIALS FILED IN THE CHAPTER 11 CASES

Tab	Document
A	Voluntary Petition of Skillsoft Corporation
B	Voluntary Petition of Amber Holding Inc.
C	Voluntary Petition of SumTotal Systems LLC
D	Voluntary Petition of MindLeaders, Inc.
E	Voluntary Petition of Accero, Inc.

Tab	Document
F	Voluntary Petition of CyberShift Holdings, Inc.
G	Voluntary Petition of CyberShift, Inc. (U.S.)
H	Voluntary Petition of Pointwell Limited
I	Voluntary Petition of SSI Investments I Limited
J	Voluntary Petition of SSI Investments II Limited
K	Voluntary Petition of SSI Investments III Limited
L	Voluntary Petition of Skillsoft Limited
M	Voluntary Petition of Skillsoft Ireland Limited
N	Voluntary Petition of ThirdForce Group Limited
O	Voluntary Petition of Skillsoft U.K. Limited
P	Voluntary Petition of Skillsoft Canada, Ltd.
Q	*Motion of Debtors for Entry of Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief*
R	*Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief*
S	*Application of Debtors Pursuant to 28 U.S.C. § 156(c) for Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date*
T	*Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date*
U	*Motion of Debtors Pursuant to 11 U.S.C. § 105 for Entry of and Order Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541*
V	*Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541*
W	*Motion of Debtors for Entry of an Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505*

Tab	Document
X	*Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505*
Y	*Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief*
Z	*Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief*
AA	*Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief*
BB	*Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief*
CC	*Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief*
DD	*Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief*
EE	*Motion of Debtors for Entry of Interim and Final Orders (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief*
FF	*Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing*

Tab	Document
	Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief
GG	*Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief*
HH	*Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief*
II	*Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief*
JJ	*Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief*
KK	*Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief*
LL	*Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief*
MM	*Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the*

Tab	Document
	Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018
NN	*Order (I) Scheduling Combined Hearing to Consider (A) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018*
OO	*Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief*
PP	*Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief*
QQ	*Motion of Debtors for Entry of an Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information In the Motion to Enter Into Exclusivity Letter*
RR	*Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter*
SS	*Motion of Debtors pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 for Entry of an Order authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal*
TT	*Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters*

Tab	Document
	Under Seal
UU	*Motion of Debtors Pursuant to 11 U.S.C. §§ 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 for Entry of Interim and Final Orders Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal (II) the Commercial Information and the Personal Information in Future Filings Under Seal*
VV	*Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal*

TAB A

Voluntary Petition of Skillsoft Corporation

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Skillsoft Corporation

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN) 02-0496115

4. Debtor's address

Principal place of business

300 Innovative Way, Suite 201
Number Street

Nashua New Hampshire 03062
City State ZIP Code

Hillsborough
County

Mailing address, if different from principal place of business

Number Street

P.O. Box

City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000001

Debtor Skillsoft Corporation Case number (if known) 20-____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Skillsoft Corporation Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Chief Administrative Officer
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

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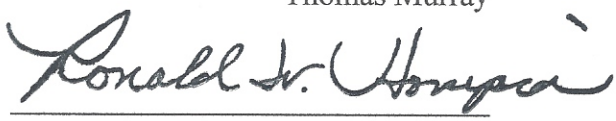
Thomas Murray



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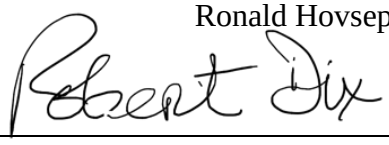

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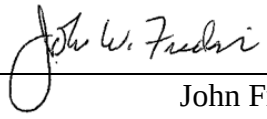
Ronald Hovsepian

Robert Dix



John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: Skillsoft Corporation

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Skillsoft Corporation
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Skillsoft Corporation
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Skillsoft Corporation
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge

and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.

13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

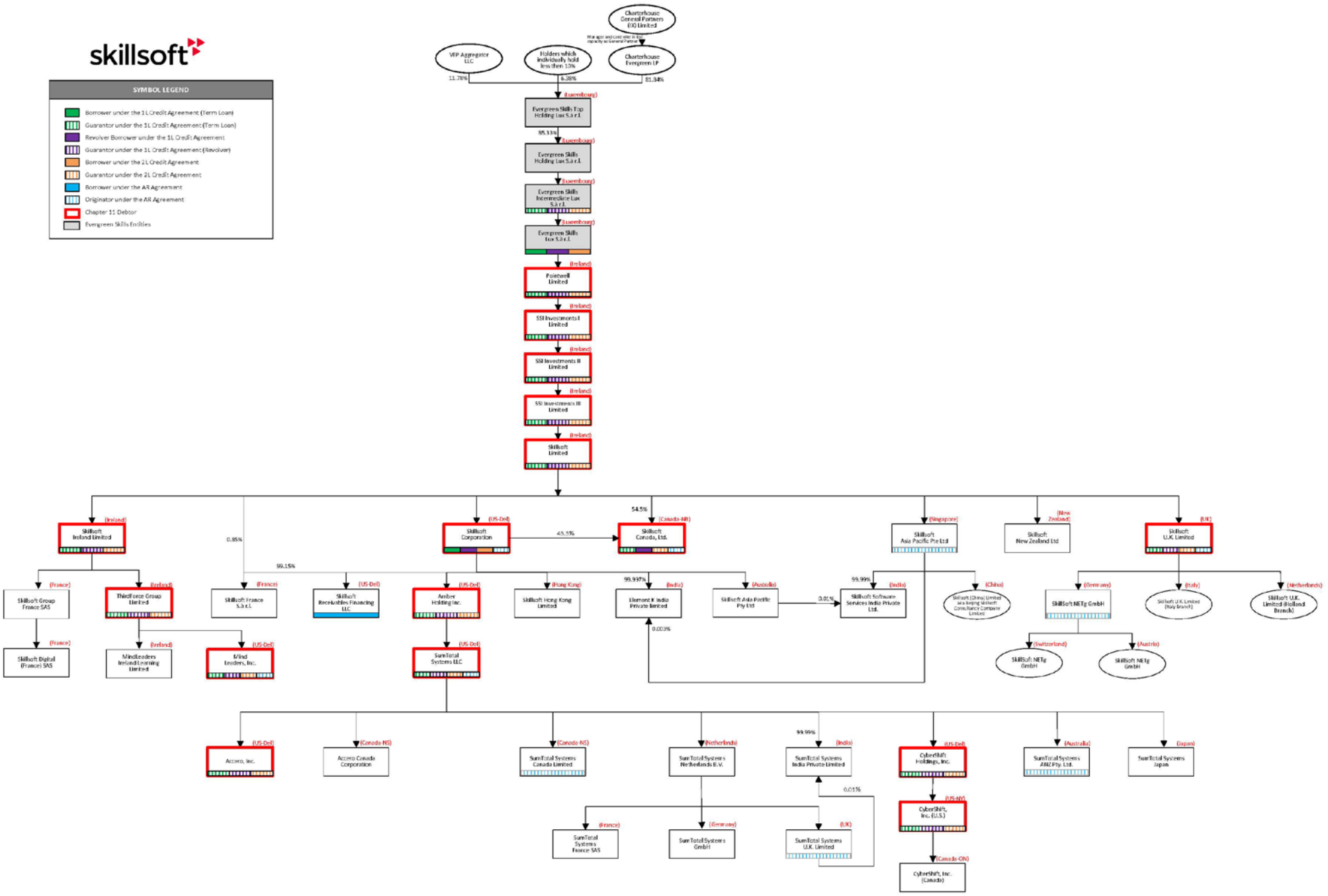
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
Skillsoft Corporation
Skillsoft Canada, Ltd.
54.5%
45.5%
0.85%
99.15%
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.997%
99.99%
0.01%
0.003%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

x

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Skillsoft Corporation

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Chief Administrative Officer
Position or relationship to debtor

TAB B

Voluntary Petition of Amber Holding Inc.

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Amber Holding Inc.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) 26-4590335

4. Debtor's address

Principal place of business

300 Innovative Way, Suite 201
Number Street

Nashua New Hampshire 03062
City State ZIP Code

Hillsborough
County

Mailing address, if different from principal place of business

Number Street

P.O. Box

City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify: _____

2011532200614000000000003

Debtor Amber Holding Inc. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Amber Holding Inc. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

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Ronald Hovsepian

Robert Dix

John Frederick

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_____
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Ferdinand von Prondzynski

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Thomas Murray

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John Frederick

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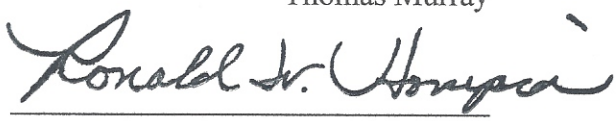
_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

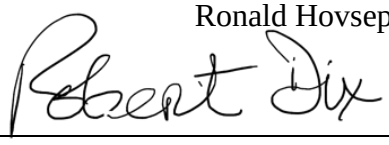
Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian



Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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John Frederick

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: Amber Holding Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Amber Holding Inc. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Amber Holding Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Amber Holding Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
AMBER HOLDING INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

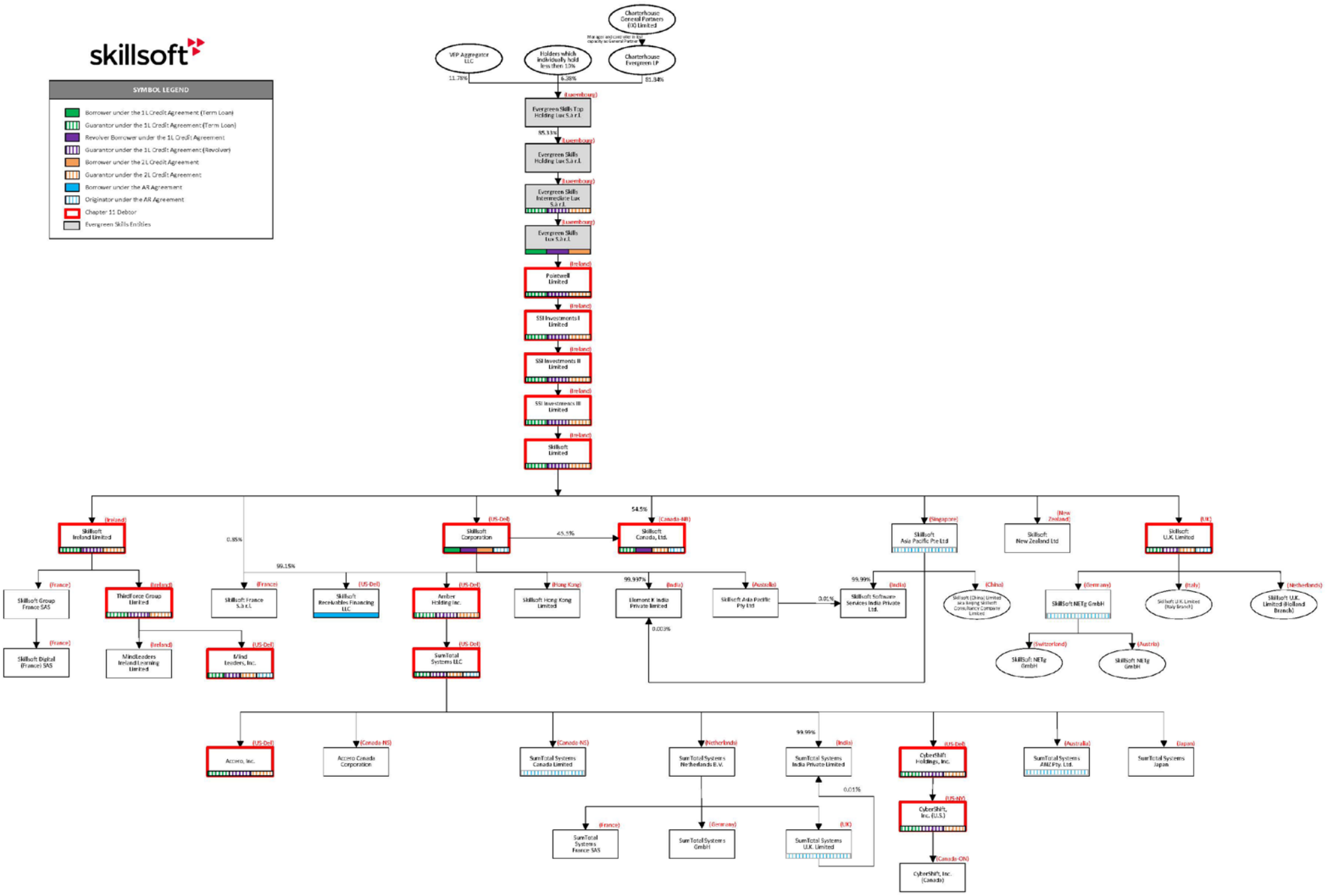
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
99.15%
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
Skillsoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
AMBER HOLDING INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Corporation 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Amber Holding Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB C

Voluntary Petition of SumTotal Systems LLC

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name SumTotal Systems LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

SumTotal Systems, Inc.

3. Debtor's federal Employer Identification Number (EIN) 42-1607228

4. Debtor's address

Principal place of business

2850 NW 43rd Street, Suite 200
Number Street

Gainesville Florida 32606
City State ZIP Code

Alachua
County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.sumtotalsystems.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

20115322006140000000000002

Debtor SumTotal Systems LLC Name — Case number (if known) 20-____ ( )

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor SumTotal Systems LLC Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

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Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

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Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

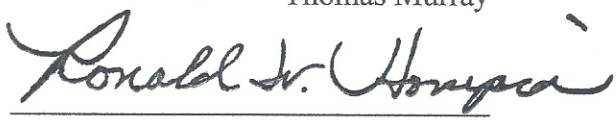
IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
John Frederick

_____
Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: SumTotal Systems LLC

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor SumTotal Systems LLC Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor SumTotal Systems LLC Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor SumTotal Systems LLC
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

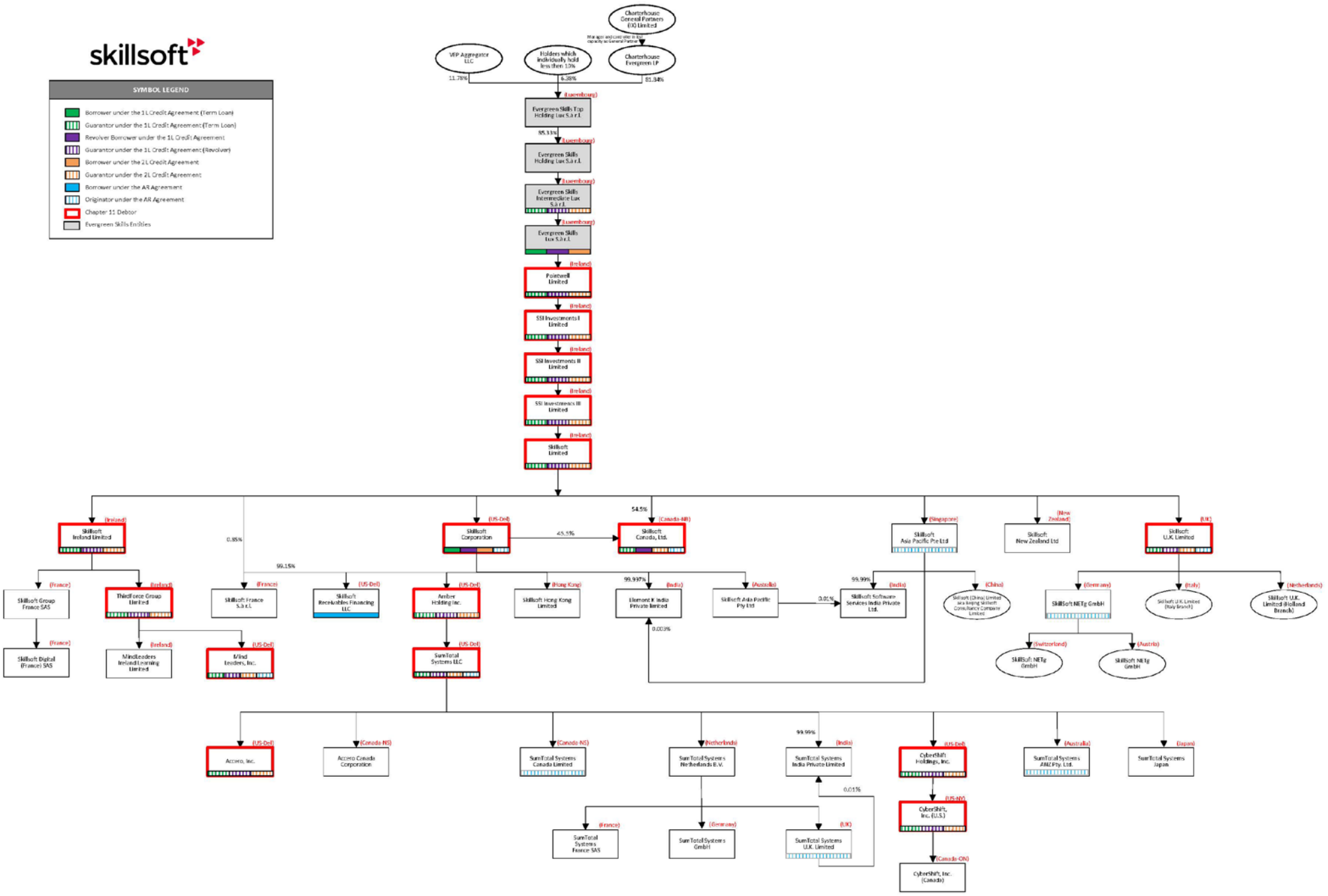
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
Skillsoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Amber Holding Inc. 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Membership Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: SumTotal Systems LLC

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB D

Voluntary Petition of MindLeaders, Inc.

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name MindLeaders, Inc.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) 98-0536072

4. Debtor's address

Principal place of business

300 Innovative Way, Suite 201
Number Street

Nashua New Hampshire 03062
City State ZIP Code

Hillsborough
County

Mailing address, if different from principal place of business

Number Street

P.O. Box

City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000004

Debtor MindLeaders, Inc. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☒ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor MindLeaders, Inc. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

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Ronald Hovsepian

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John Frederick

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John Frederick

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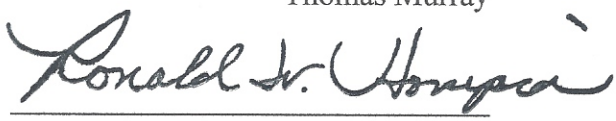
_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

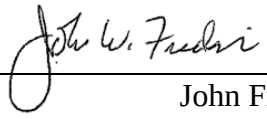
Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix



John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

[Signature Page to Written Consent]

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

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Thomas Murray

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Ronald Hovsepian

_____
John Frederick

_____
Robert Dix

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Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: MindLeaders, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor MindLeaders, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor MindLeaders, Inc. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor MindLeaders, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
MINDLEADERS, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

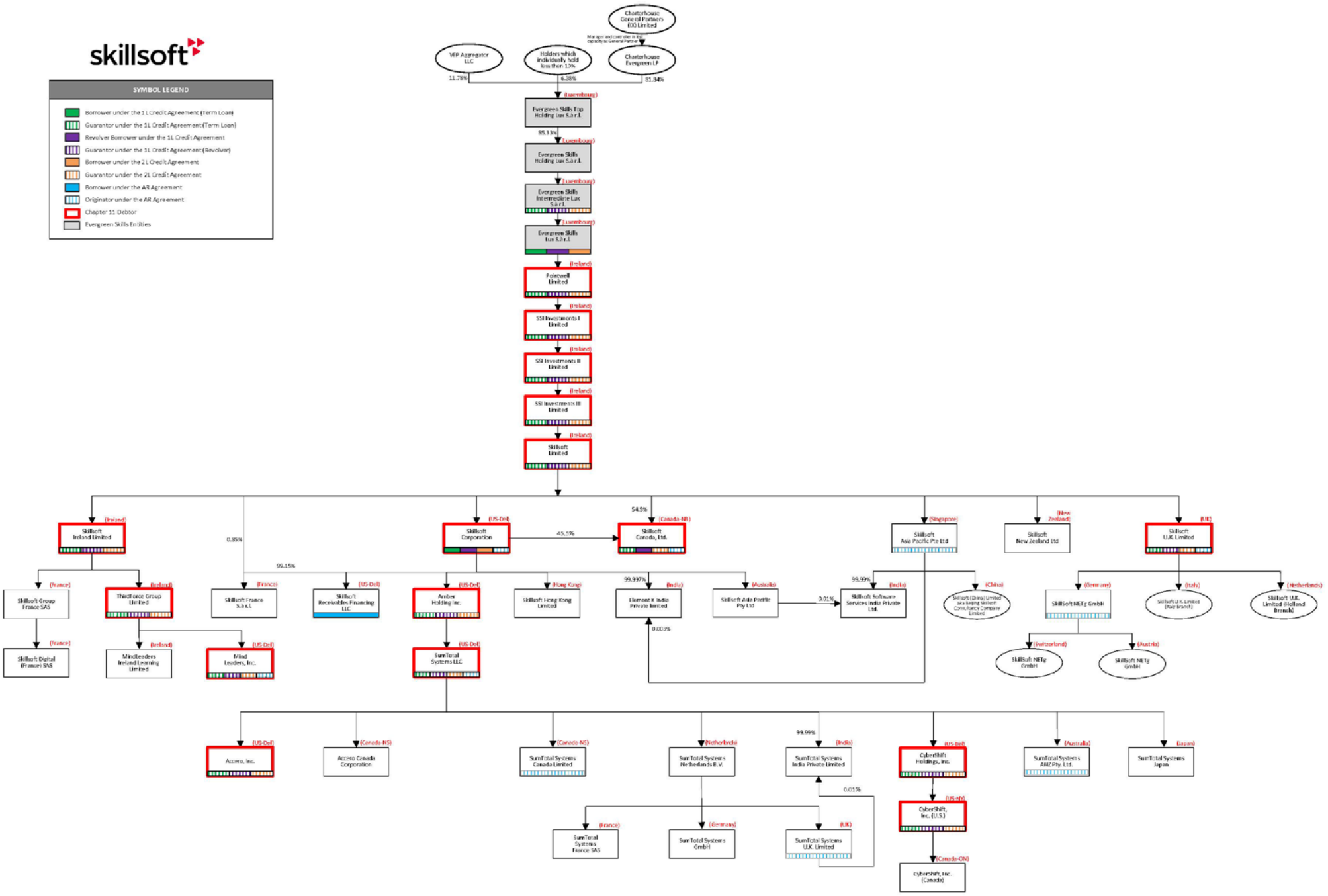
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
(Luxembourg)
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
(Ireland)
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
Skillsoft Corporation
(US-Del)
54.5%
Skillsoft Canada, Ltd.
(Canada-NB)
45.5%
0.85%
99.15%
Skillsoft Asia Pacific Pte Ltd
(Singapore)
Skillsoft New Zealand Ltd
(New Zealand)
Skillsoft U.K. Limited
(UK)
Skillsoft Group France SAS
(France)
ThirdForce Group Limited
(Ireland)
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
(Hong Kong)
99.997%
Element K India Private limited
(India)
Skillsoft Asia Pacific Pty Ltd
(Australia)
0.01%
0.003%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
(China)
SkillSoft NETg GmbH
(Germany)
Skillsoft U.K. Limited (Italy Branch)
(Italy)
Skillsoft U.K. Limited (Holland Branch)
(Netherlands)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
Skillsoft NETg GmbH
(Switzerland)
Skillsoft NETg GmbH
(Austria)
Accero, Inc.
Accero Canada Corporation
(Canada-NS)
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
(Netherlands)
SumTotal Systems India Private Limited
99.99%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
(Australia)
SumTotal Systems Japan
(Japan)
0.01%
CyberShift, Inc. (U.S.)
(US-NV)
SumTotal Systems France SAS
(France)
SumTotal Systems GmbH
(Germany)
SumTotal Systems U.K. Limited
(UK)
CyberShift, Inc. (Canada)
(Canada-ON)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
MINDLEADERS, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
ThirdForce Group Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: MindLeaders, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB E

Voluntary Petition of Accero, Inc.

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Accero, Inc.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) 26-1744684

4. Debtor's address

Principal place of business

2850 NW 43rd Street, Suite 200
Number Street

Gainesville Florida 32606
City State ZIP Code

Alachua
County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.sumtotalsystems.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000005

Debtor Accero, Inc. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____
  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Accero, Inc. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor Accero, Inc. Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

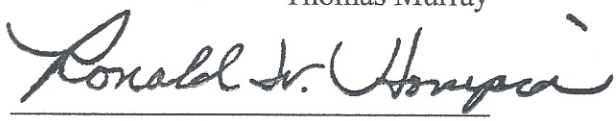
IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
John Frederick

_____
Robert Dix

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Ferdinand von Prondzynski

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Ronald Hovsepian

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Robert Dix

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John Frederick

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: Accero, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Accero, Inc. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Accero, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Accero, Inc.
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
ACCERO, INC.,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

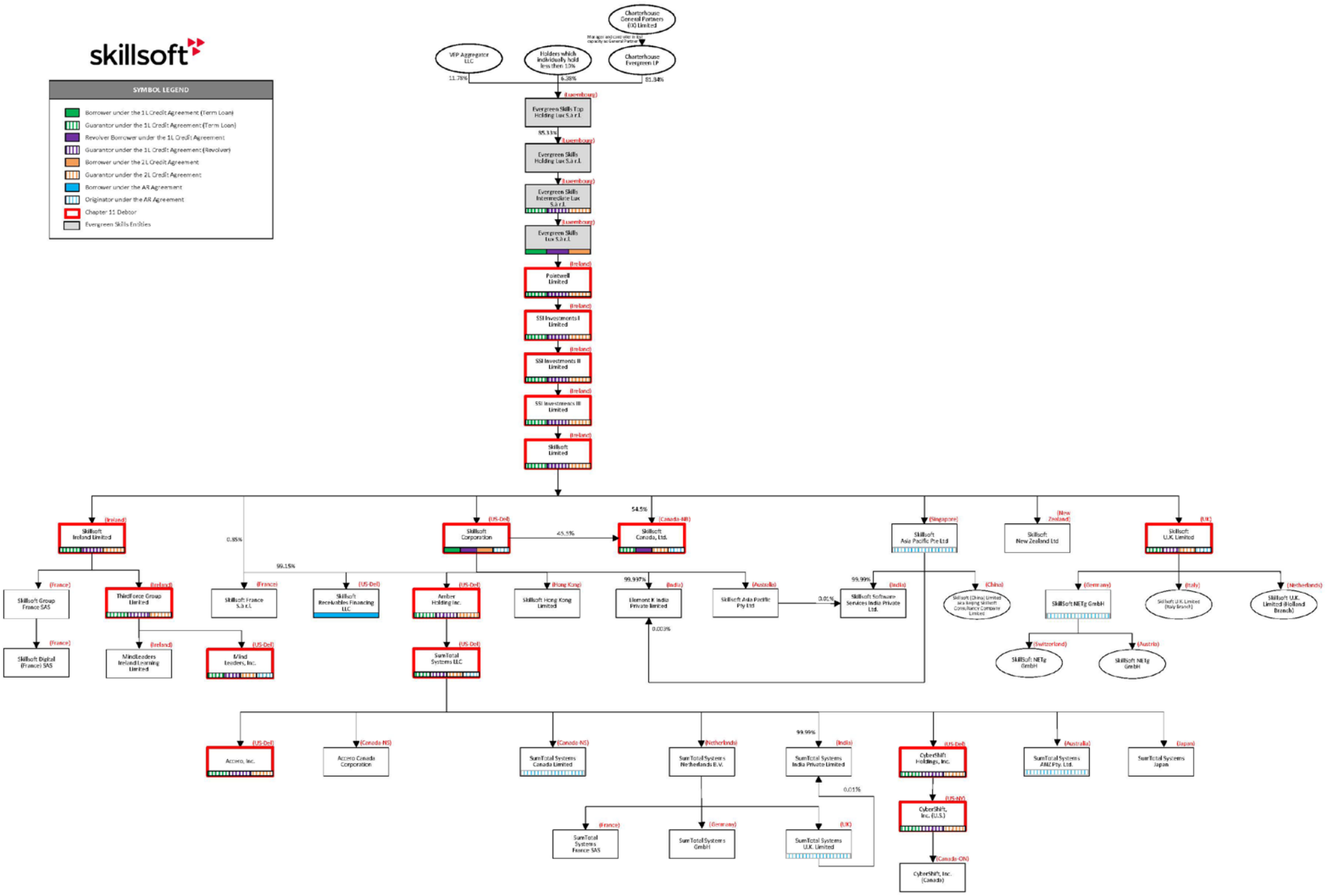
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.15%
99.997%
99.99%
0.01%
0.003%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
ACCERO, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
SumTotal Systems LLC 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Accero, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB F

Voluntary Petition of CyberShift Holdings, Inc.

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name CyberShift Holdings, Inc.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) 22-3482109

4. Debtor's address

Principal place of business

2850 NW 43rd Street, Suite 200
Number Street

Gainesville Florida 32606
City State ZIP Code

Alachua
County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.sumtotalsystems.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000007

Debtor CyberShift Holdings, Inc. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor CyberShift Holdings, Inc. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor CyberShift Holdings, Inc. Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

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Ronald Hovsepian

Robert Dix

John Frederick

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_____
Gregory Porto

_____
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_____
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Robert Dix

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John Frederick

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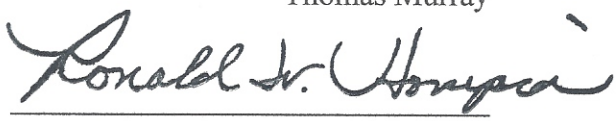
_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

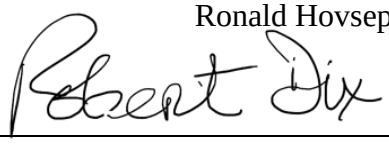
Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian



Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

**OMNIBUS ACTION BY
WRITTEN CONSENT
OF THE
GOVERNING BODIES OF
THE COMPANIES**

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

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_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray

_____
Ronald Hovsepian

_____
John Frederick

_____
Robert Dix

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Robert Dix

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Thomas Murray

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Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: CyberShift Holdings, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor CyberShift Holdings, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor CyberShift Holdings, Inc. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor CyberShift Holdings, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

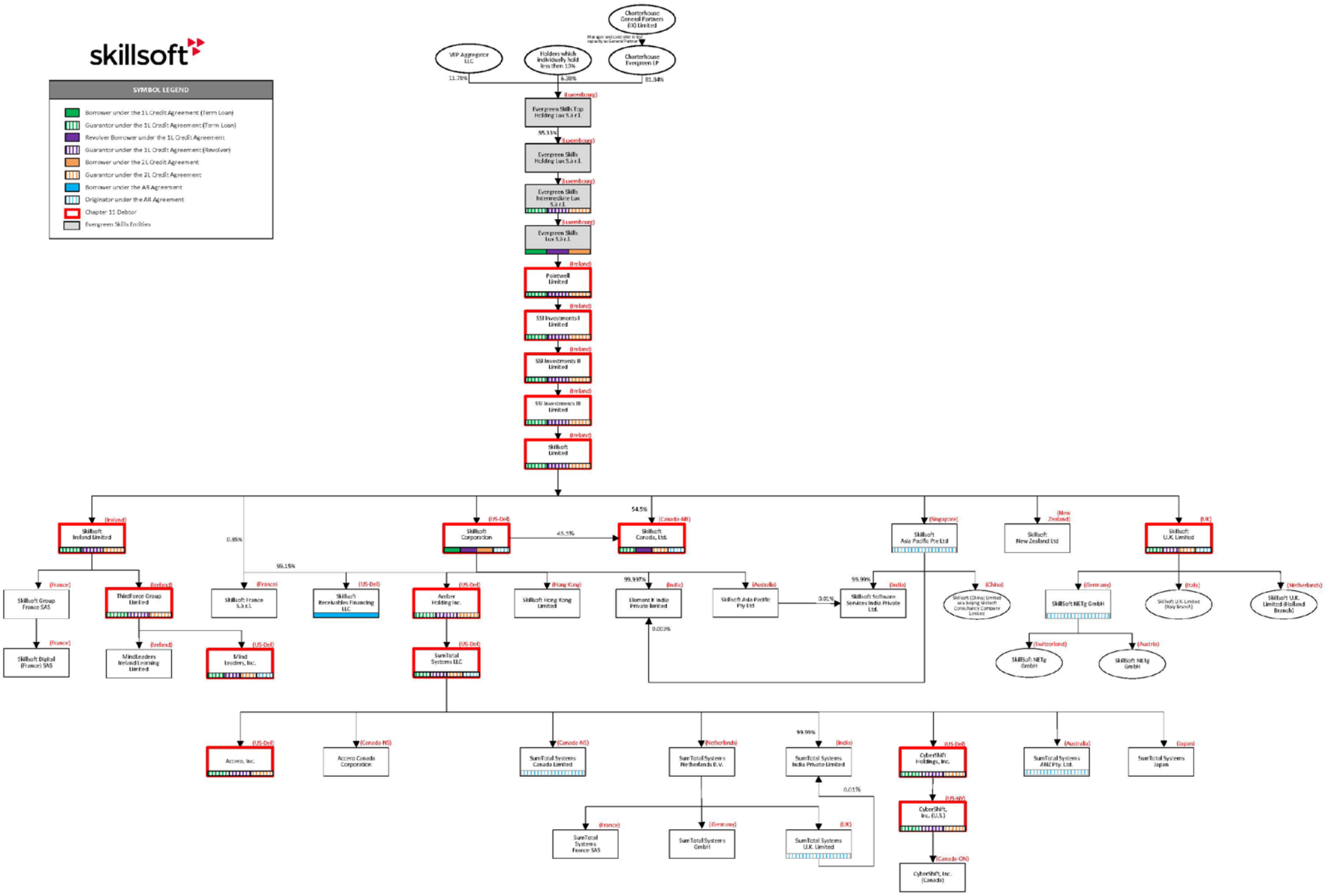
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.15%
99.997%
99.99%
0.01%
0.003%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
SumTotal Systems LLC 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: CyberShift Holdings, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB G

Voluntary Petition of CyberShift, Inc. (U.S.)

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name CyberShift, Inc.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) 11-2530586

4. Debtor's address

Principal place of business

2850 NW 43rd Street, Suite 200
Number Street

Gainesville Florida 32606
City State ZIP Code

Alachua
County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.sumtotalsystems.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000006

Debtor CyberShift, Inc. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor CyberShift, Inc. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor See Schedule 1 Relationship See Schedule 1

District See Schedule 1 When June 14, 2020
MM / DD/ YYYY

Case number, if known

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency

Contact Name

Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

ACTION BY
WRITTEN CONSENT OF
THE GOVERNING BODIES OF

SKILLSOFT CORPORATION
AMBER HOLDING INC.
SUMTOTAL SYSTEMS LLC
MINDLEADERS, INC.
ACCERO, INC.
CYBERSHIFT HOLDINGS, INC.
CYBERSHIFT, INC.

June 14, 2020

The undersigned being either (a) all of the members of the board of directors or (b) the sole member, as the case may be (in each case, a "**Governing Body**") of the entities specified on the signature pages hereto (each such entity, a "**Company**") do hereby consent to and adopt and approve by written consent, in accordance with both applicable law and the certificate or articles of incorporation or bylaws or similar organizational documents of the applicable Company, the following resolutions and each and every action effected thereby:

WHEREAS, each Governing Body has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries, the strategic alternatives available to such Company and the impact of the foregoing on such Company's business;

WHEREAS, each Governing Body has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, each Governing Body desires to approve the following resolutions.

Commencement of Chapter 11 Cases

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of such Company has determined, after consultation with the management and the legal and financial advisors of the applicable Company, that it is desirable and in the best interests of such Company, its shareholders, creditors, and other parties in interest that petitions be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") by such Company seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"); and be it further

RESOLVED, that any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any member, manager, director or officer of such Company (with respect to each Company, each such person, an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, to

negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, and under its corporate seal or otherwise, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents (collectively, the "**Chapter 11 Filings**") (with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, the execution and delivery of any of the Chapter 11 Filings by any such Authorized Person with any changes thereto to be conclusive evidence that any such Authorized Person deemed such changes to meet such standard); and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (collectively, the "**Chapter 11 Cases**") or the Chapter 11 Filings, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Cases with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

Retention of Advisors

RESOLVED, that, in connection with the Chapter 11 Cases, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Cases, with a view to the successful prosecution of the Chapter 11 Cases (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for each Company in the Chapter 11

Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for each Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and be it further

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative advisor for each Company in the Chapter 11 Cases, subject to Bankruptcy Court approval; and be it further

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of the applicable Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard); and be it further

General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, with full power of delegation, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates that may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard; and be it further

RESOLVED, that any and all past actions heretofore taken by any Authorized Person, any director, or any member of such Company in the name and on behalf of such Company in furtherance of any or all of the preceding resolutions be, and the same hereby are, ratified, confirmed, and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

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Ronald Hovsepian

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John Frederick

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John Frederick

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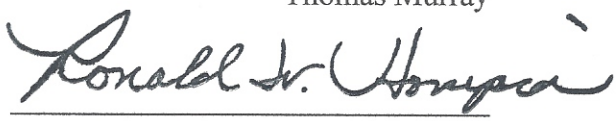
_____
Bobby Jenkins

_____
Gregory Porto

_____
Ferdinand von Prondzynski

_____
Thomas Murray



_____
Ronald Hovsepian

_____
Robert Dix

_____
John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix

Robert Dix

John Frederick

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of SKILLSOFT CORPORATION, have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

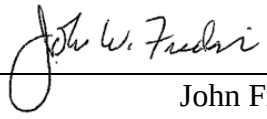
Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

Robert Dix



John Frederick

IN WITNESS WHEREOF, the undersigned, being the sole Member of SUMTOTAL SYSTEMS LLC, has executed this written consent as of the date first set forth above.

MEMBER:

AMBER HOLDING INC.

By: _____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being all members of the board of directors of AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., and CYBERSHIFT, INC., have executed this unanimous written consent as of the date first set forth above.

Gregory Porto

Michael Pellegrino

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of MINDLEADERS, INC., has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

[Signature Page to Written Consent]

EXECUTION VERSION

OMNIBUS ACTION BY WRITTEN CONSENT OF THE GOVERNING BODIES OF THE COMPANIES

June 14, 2020

The undersigned, being all of the members of the boards of directors, the sole member, or the board of managers, as the case may be (in each case, the "Governing Body" and collectively, the "Governing Bodies"), of each of the entities specified on the signature pages hereto, (each a "Company" and together, the "Companies"), do hereby consent to, adopt and approve, by unanimous written consent the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at duly convened meetings of each Governing Body, and direct that this written consent be filed with the minutes of the proceedings of the relevant Governing Body:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower") desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (a) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among *inter alios*, the Borrower, each of the other Companies as guarantors (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Security Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as grantors, and the DIP Agent, each Company shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's material assets (with the priority fully described therein), and (c) that certain Debtor-in-Possession Pledge Agreement, dated on or about the date hereof (together with the exhibits and the schedules attached thereto, (the "Pledge Agreement"), by and among, *inter alios*, the Borrower, each of the other Companies as pledgors, and the DIP Agent, each Company shall pledge to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of such Company's equity interests and pledged debt;

WHEREAS, each Company will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of (i) the Borrower to execute and deliver the DIP Credit Agreement and (ii) the Borrower and each Company to execute and deliver the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement (as defined below), the Intercompany Note (as defined below) and the other

DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder;

WHEREAS, the Governing Body of each Company deems the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement, the Escrow Agreement, the Intercompany Note and the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by such Company of its obligations thereunder and the transactions contemplated thereby to be desirable, advisable and in the best interests of such Company. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions.

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of each Company has determined that it is in the best interest of each Company to engage in, and each Company will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the applicable bankruptcy court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Companies; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the borrowings by the Borrower and use of proceeds to provide liquidity for the Companies throughout the Chapter 11 Case, substantially in the form presented to the Governing Bodies, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreement, including the grant of security interests thereunder, (iv) the Pledge Agreement, including the pledge of security interests thereunder, (v) that certain Escrow Agreement, dated on or about the date hereof (together with the exhibits attached thereto, the "Escrow Agreement"), by and among the Borrower and the Escrow Agent (as defined therein), (vi) the Amended and Restated Intercompany Note, dated on or about the date hereof (the "Intercompany Note") and (vii) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, deposit account control agreements, intercreditor agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed in connection with the DIP Financing (together with the DIP Credit Agreement, the Guarantee, the Security Agreement, the Pledge Agreement the Escrow Agreement and the Intercompany Note, collectively, the "DIP Financing Documents"), and each Company's performance of its respective obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Companies (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to cause such Company to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of such Company under its common seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized to (i) guarantee, and (ii) to grant security interests in and liens on, and (iii) to pledge security interests in, any and all property of such Company as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of such Company and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and

the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of such Company, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Companies is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform such Company's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of such Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions of the DIP Credit Agreement and/or any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

2. General Authority.

RESOLVED, that each Responsible Officer of each Company, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of such Company, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of such Company as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of each Company is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of such Company; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by this written consent is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and that the omission from this written consent of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or

documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of each Company; and be it

RESOLVED FURTHER, that, to the extent that any Company serves as the sole member, managing member, general partner, partner or other governing body (collectively, a "Controlling Company"), in each case, of any other company (a "Controlled Company"), each Responsible Officer of such Company, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of such Controlling Company (acting for such Controlled Company in the capacity set forth above, as applicable), to (i) authorize such Controlled Company to take any action that any Company is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Company that a Responsible Officer is herein authorized to take on behalf of such Controlling Company; and be it

RESOLVED FURTHER, that this written consent may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of any Company taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of such Company.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CORPORATION,** have executed this unanimous written consent as of the date first set forth above.

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Bobby Jenkins

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Gregory Porto

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Ferdinand von Prondzynski

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Thomas Murray

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Ronald Hovsepian

_____
John Frederick

_____
Robert Dix

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Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

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Bobby Jenkins

Gregory Porto

Ferdinand von Prondzynski

Thomas Murray

Ronald Hovsepian

John Frederick

Robert Dix

Robert Dix

IN WITNESS WHEREOF, the undersigned, being the sole member of the board of directors of **MINDLEADERS, INC.,** has executed this unanimous written consent as of the date first set forth above.

Bobby Jenkins

IN WITNESS WHEREOF, the undersigned, the sole member of **SUMTOTAL SYSTEMS LLC,** has executed this unanimous written consent as of the date first set forth above.

AMBER HOLDING INC.

By:_____
Name: Gregory Porto
Title: Secretary

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

IN WITNESS WHEREOF, the undersigned, being all the members of the board of **AMBER HOLDING INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC.** and **CYBERSHIFT, INC.**, have executed this written consent as of the date first set forth above.

Michael Pellegrino

Gregory Porto

Fill in this information to identify the case:

Debtor name: CyberShift, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor CyberShift, Inc. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor CyberShift, Inc. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor CyberShift, Inc.
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
CYBERSHIFT, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

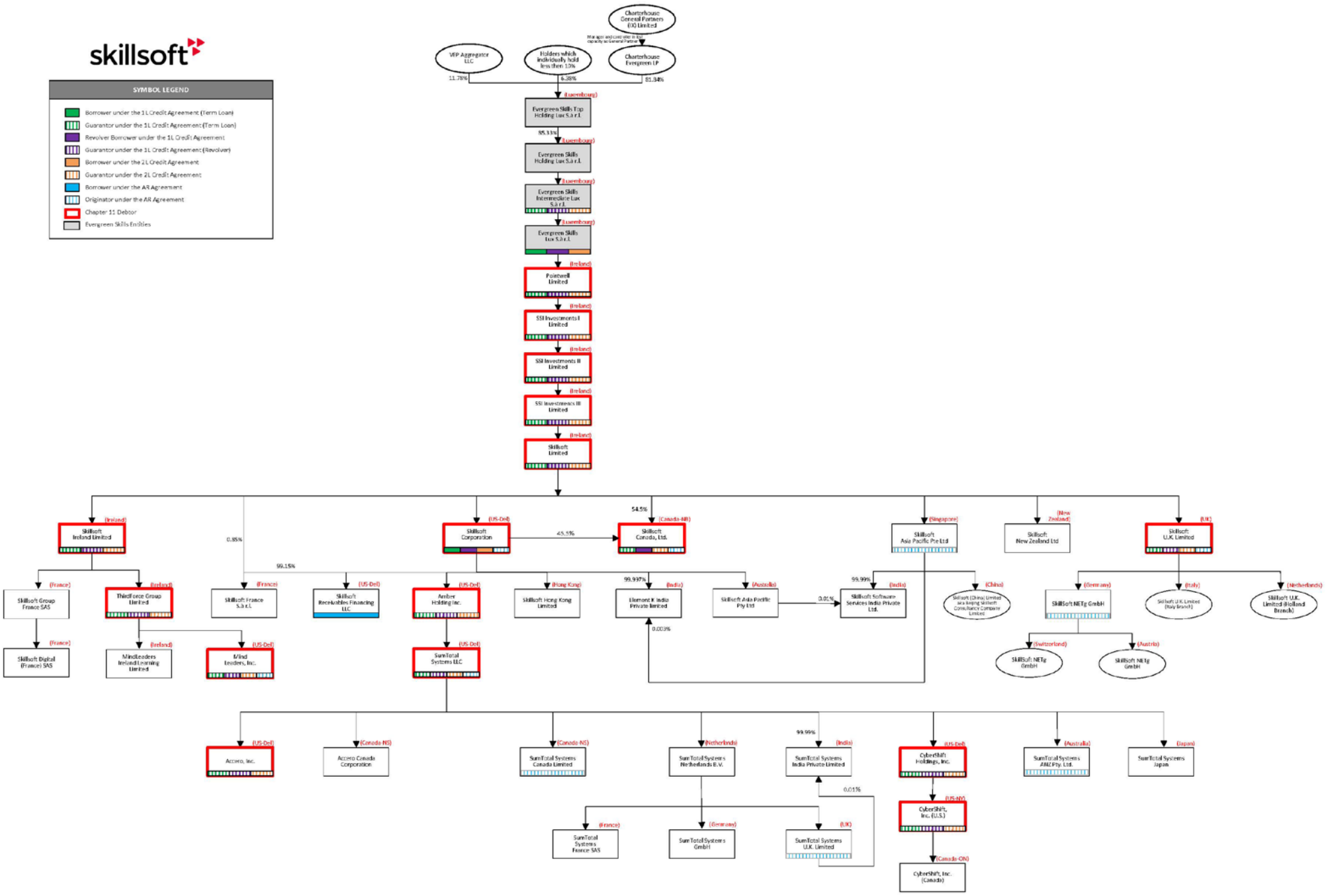
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
Skillsoft Corporation
Skillsoft Canada, Ltd.
54.5%
45.5%
0.85%
99.15%
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.997%
99.99%
0.01%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
CYBERSHIFT, INC.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
CyberShift Holdings, Inc. 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: CyberShift, Inc.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB H

Voluntary Petition of Pointwell Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Pointwell Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

2nd Floor 1-2 Victoria Buildings
Number Street

Haddington Road

Dublin 4 Ireland D04 XN32
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000009

7. Describe debtor's business

A. *Check one:*

☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
☐ Railroad (as defined in 11 U.S.C. § 101(44))
☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
☒ None of the above

B. *Check all that apply:*

☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

☐ Chapter 7
☐ Chapter 9
☒ Chapter 11. *Check all that apply*:

- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

☒ No
☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____
District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Pointwell Limited Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor See Schedule 1 Relationship See Schedule 1

District See Schedule 1 When June 14, 2020
MM / DD/ YYYY

Case number, if known

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency

Contact Name

Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

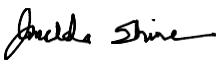
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

POINTWELL LIMITED

This Power of Attorney is made on 14 June 2020 by **Pointwell Limited** registered number 540778 having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Senior Secured Super-Priority Debtor-in-Possession Credit Agreement between, amongst others, the Company (as parent), Skillsoft Corporation (as borrower), the guarantors, the lenders from time to time party thereto (as lenders) and Wilmington Savings Fund Society, FSB (as administrative agent and collateral agent for lenders in such capacity, including any successor);

2. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

6. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

7. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
POINTWELL LIMITED by

Director

Fill in this information to identify the case:

Debtor name: Pointwell Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Pointwell Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Pointwell Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Pointwell Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
POINTWELL LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

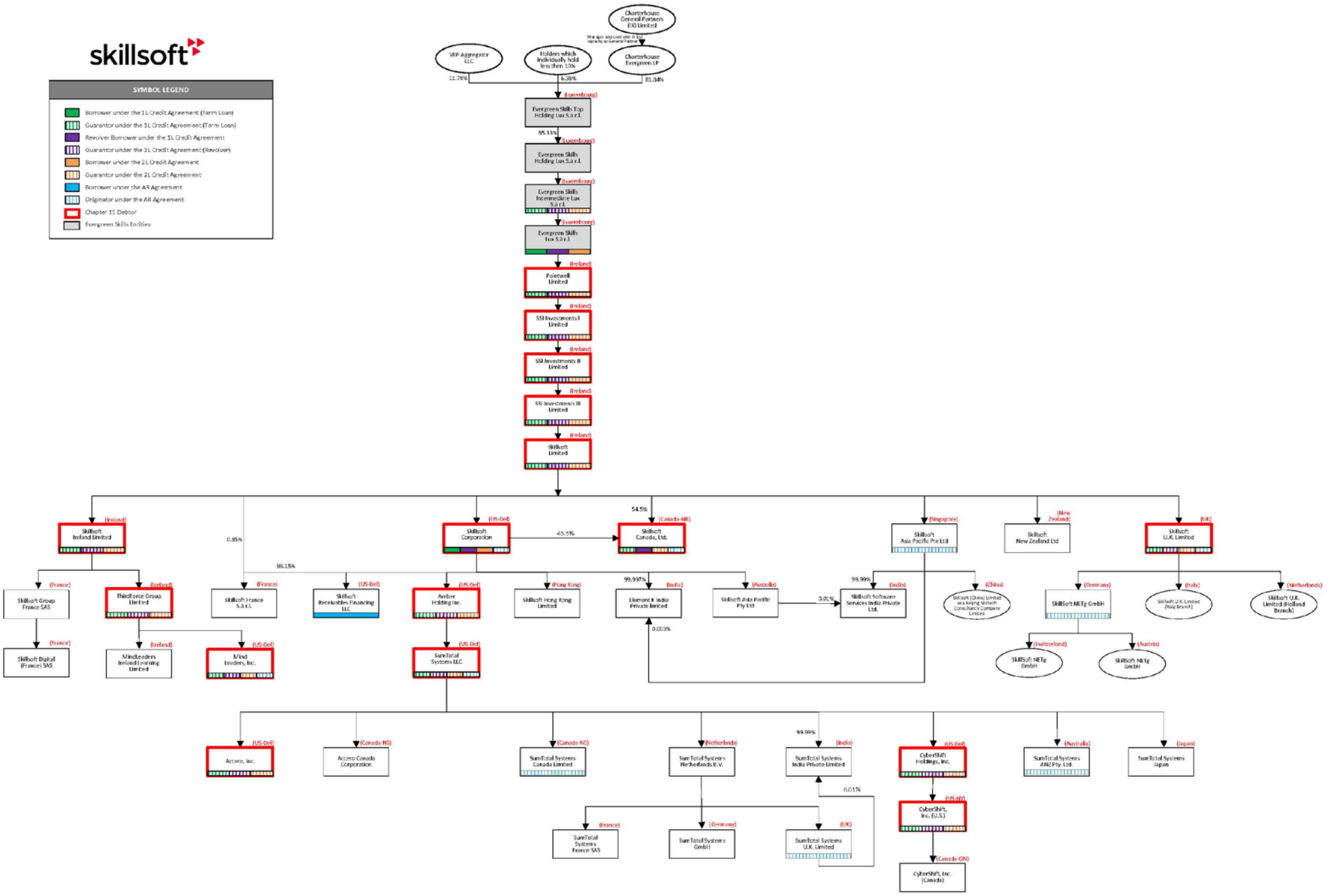
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
POINTWELL LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Evergreen Skills Lux S.à r.l. 8, rue Notre-Dame L-2240 Luxembourg Grand Duchy of Luxembourg	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Pointwell Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB I

Voluntary Petition of SSI Investments I Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name SSI Investments I Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

2nd Floor 1-2 Victoria Buildings
Number Street

Haddington Road

Dublin 4 Ireland D04 XN32
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

20115322006140000000000008

Debtor SSI Investments I Limited Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor SSI Investments I Limited (Name) Case number (if known) 20-____ ( )

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 (MM / DD/ YYYY)
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor SSI Investments I Limited Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

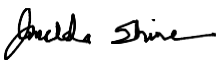
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

SSI INVESTMENTS I LIMITED

This Power of Attorney is made on 14 June 2020 by **SSI Investments I Limited** registered number 480475 having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

6. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
SSI INVESTMENTS I LIMITED by

Director

Fill in this information to identify the case:

Debtor name: SSI Investments I Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor SSI Investments I Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor SSI Investments I Limited Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor SSI Investments I Limited Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SSI INVESTMENTS I LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

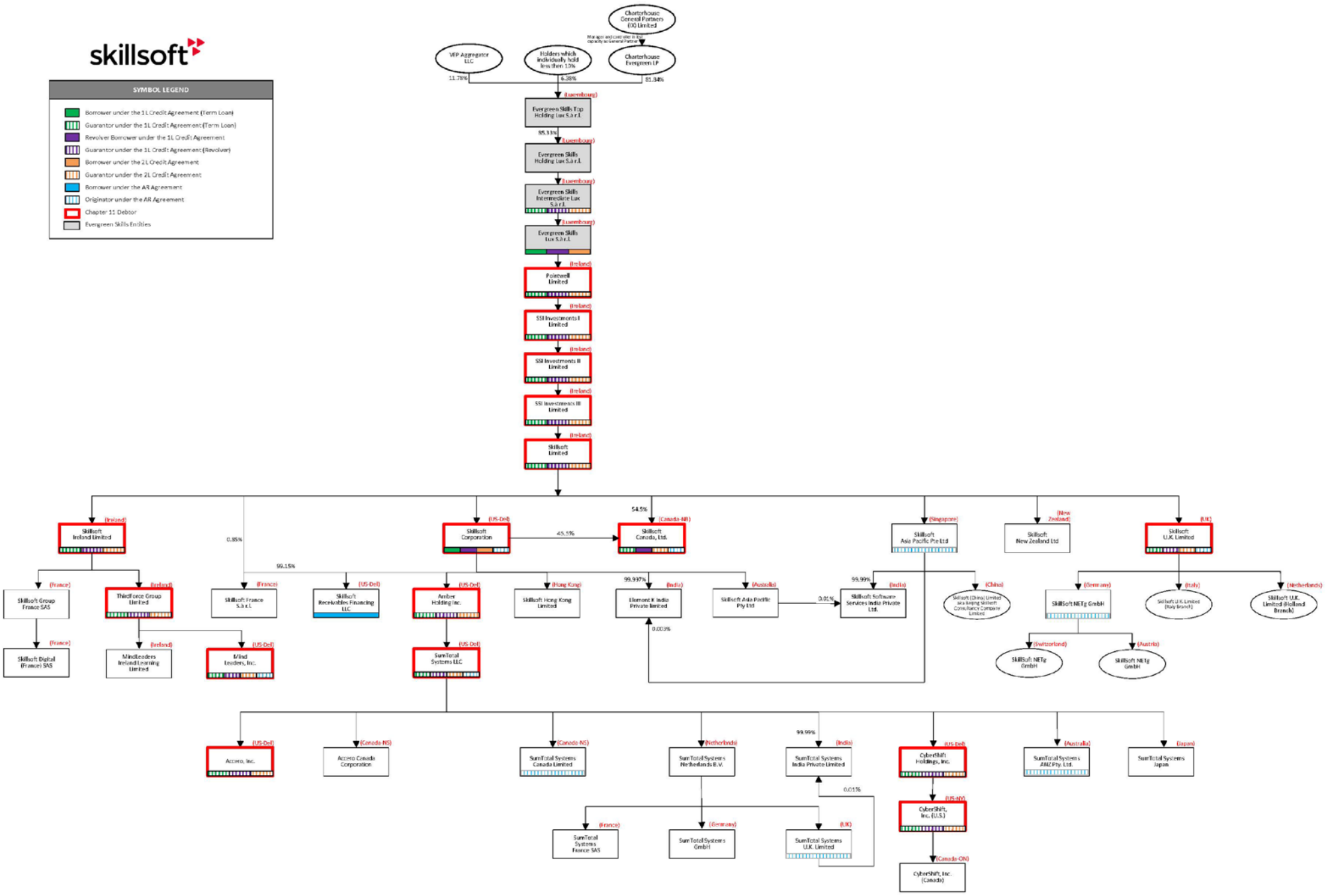
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
99.15%
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
99.99%
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SSI INVESTMENTS I LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Pointwell Limited 2nd Floor, 1-2 Victoria Buildings Haddington Road Dublin 4, D04 XN32 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: SSI Investments I Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB J

Voluntary Petition of SSI Investments II Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name SSI Investments II Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

2nd Floor 1-2 Victoria Buildings
Number Street

Haddington Road

Dublin 4 Ireland D04 XN32
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000010

Debtor SSI Investments II Limited Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor SSI Investments II Limited Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor SSI Investments II Limited Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

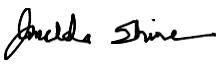
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

SSI INVESTMENTS II LIMITED

This Power of Attorney is made on 14 June 2020 by **SSI Investments II Limited** registered number 480476 having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

6. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

WF-26817249-4

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
SSI INVESTMENTS II LIMITED by

Director

Fill in this information to identify the case:

Debtor name: SSI Investments II Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor SSI Investments II Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor SSI Investments II Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor SSI Investments II Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SSI INVESTMENTS II LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

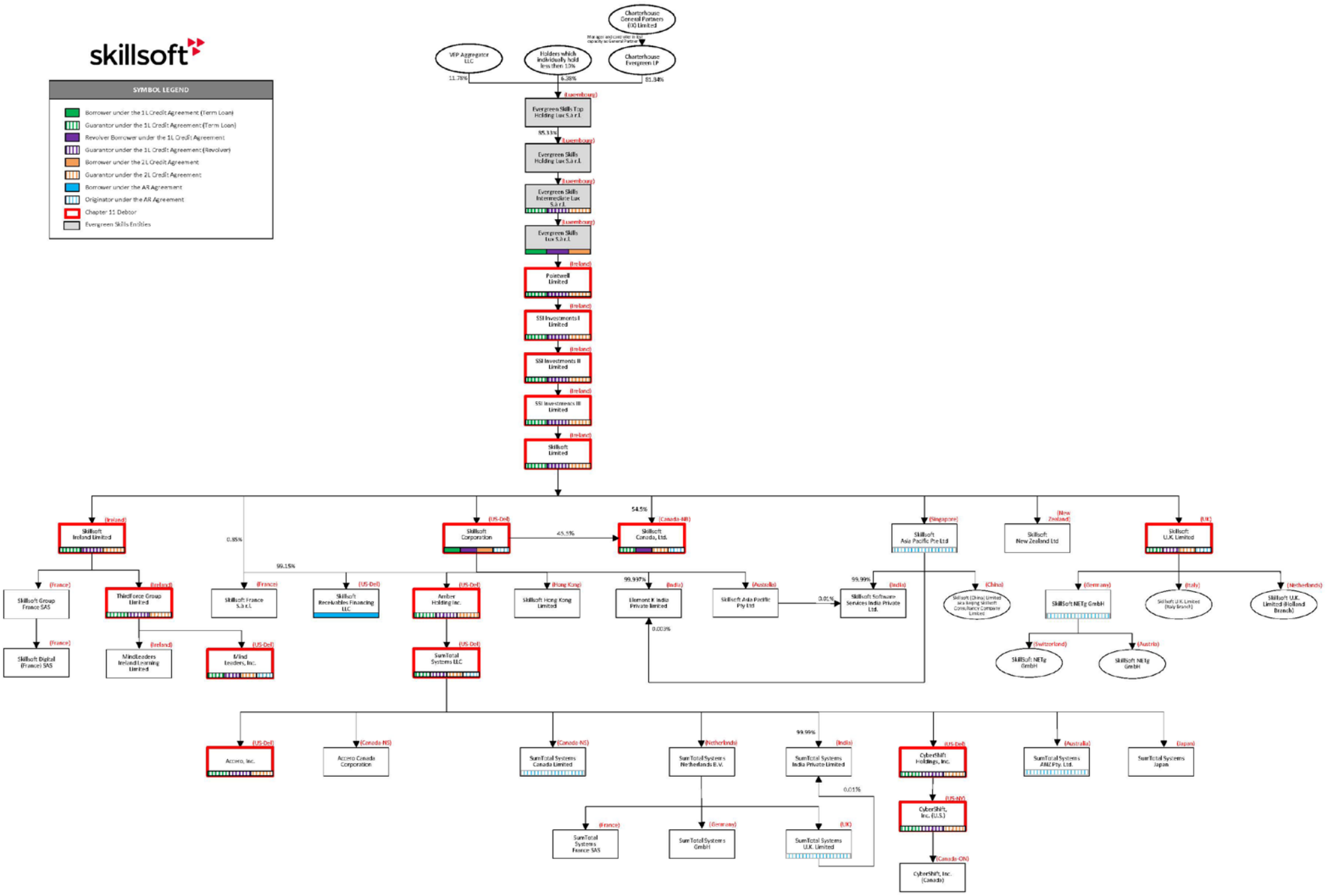
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.15%
99.997%
99.99%
0.01%
0.003%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
Skillsoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SSI INVESTMENTS II LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
SSI Investments I Limited 2nd Floor, 1-2 Victoria Buildings Haddington Road Dublin 4, D04 XN32 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: SSI Investments II Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB K

Voluntary Petition of SSI Investments III Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name SSI Investments III Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

2nd Floor 1-2 Victoria Buildings
Number Street

Haddington Road

Dublin 4 Ireland D04 XN32
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000011

Debtor SSI Investments III Limited Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor SSI Investments III Limited Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor SSI Investments III Limited Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

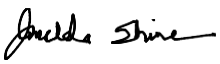
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

SSI INVESTMENTS III LIMITED

This Power of Attorney is made on 14 June 2020 by **SSI Investments III Limited** registered number 480477 having its registered office at 2nd Floor, 1-2 Victoria Buildings, Haddington Road, Dublin 4, D04 XN32 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

6. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
SSI INVESTMENTS III LIMITED by

Director

Fill in this information to identify the case:

Debtor name: SSI Investments III Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor SSI Investments III Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor SSI Investments III Limited Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor SSI Investments III Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SSI INVESTMENTS III LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

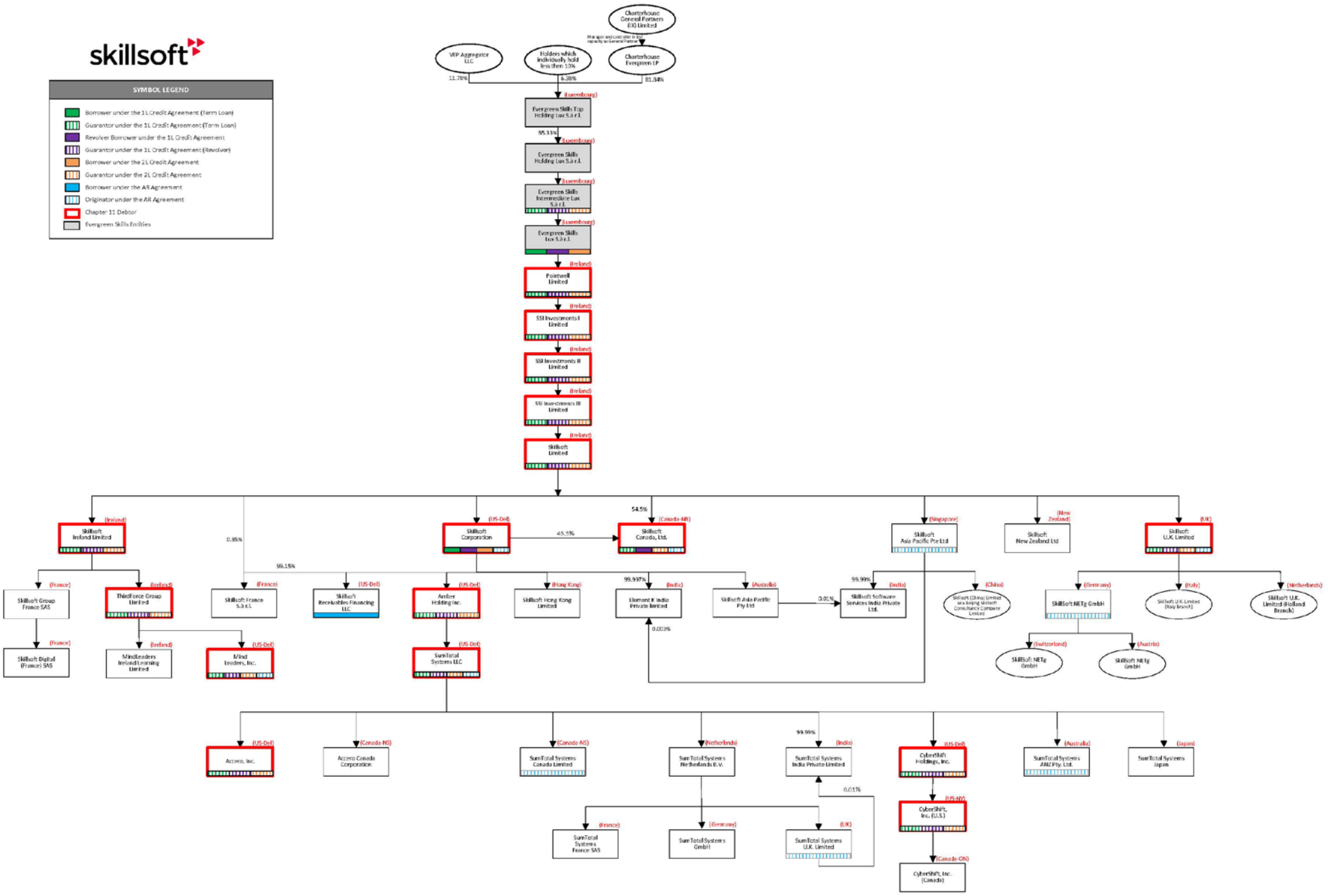
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
(Luxembourg)
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
(Ireland)
Skillsoft Ireland Limited
0.85%
99.15%
Skillsoft Corporation
(US-Del)
45.5%
54.5%
Skillsoft Canada, Ltd.
(Canada-NB)
Skillsoft Asia Pacific Pte Ltd
(Singapore)
Skillsoft New Zealand Ltd
(New Zealand)
Skillsoft U.K. Limited
(UK)
Skillsoft Group France SAS
(France)
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
(Hong Kong)
99.997%
Element K India Private limited
(India)
Skillsoft Asia Pacific Pty Ltd
(Australia)
0.01%
0.003%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited (a.k.a Beijing Skillsoft Consultancy Company Limited)
(China)
SkillSoft NETg GmbH
(Germany)
Skillsoft U.K. Limited (Italy Branch)
(Italy)
Skillsoft U.K. Limited (Holland Branch)
(Netherlands)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
Skillsoft NETg GmbH
(Switzerland)
Skillsoft NETg GmbH
(Austria)
Accero, Inc.
Accero Canada Corporation
(Canada-NS)
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
(Netherlands)
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
(Australia)
SumTotal Systems Japan
(Japan)
0.01%
CyberShift, Inc. (U.S.)
(US-NV)
CyberShift, Inc. (Canada)
(Canada-ON)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SSI INVESTMENTS III LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
SSI Investments II Limited 2nd Floor, 1-2 Victoria Buildings Haddington Road Dublin 4, D04 XN32 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: SSI Investments III Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB L

Voluntary Petition of Skillsoft Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Skillsoft Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

Block 4 Belfield Office Park
Number Street

Clonskeagh

Dublin 4 Ireland D04 V972
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

20115322006140000000000013

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____
  District _____ When _____ (MM / DD/ YYYY) Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor See Schedule 1 Relationship See Schedule 1

District See Schedule 1 When June 14, 2020
MM / DD/ YYYY

Case number, if known

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard?

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency

Contact Name

Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

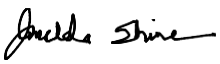
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

SKILLSOFT LIMITED

This Power of Attorney is made on 14 June 2020 by **Skillsoft Limited** registered number 148294 having its registered office at Block 4, Belfield Office Park, Clonskeagh, Dublin 4, D04 V972 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. UK law Share Security Agreement between the Company (as the Chargor) in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

6. US law Grant of Security Interest in Patent Rights made by the Company, amongst others, (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

7. US law Grant of Security Interest in Trademark Rights made by the Company, amongst others, (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

8. US law Grant of Security Interest in Copyright Rights made by the Company, amongst others, (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

9. Canadian law Intellectual Property Security Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

10. Canadian law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

11. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

12. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
SKILLSOFT LIMITED by

Director

Fill in this information to identify the case:

Debtor name: Skillsoft Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Skillsoft Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Skillsoft Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Skillsoft Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

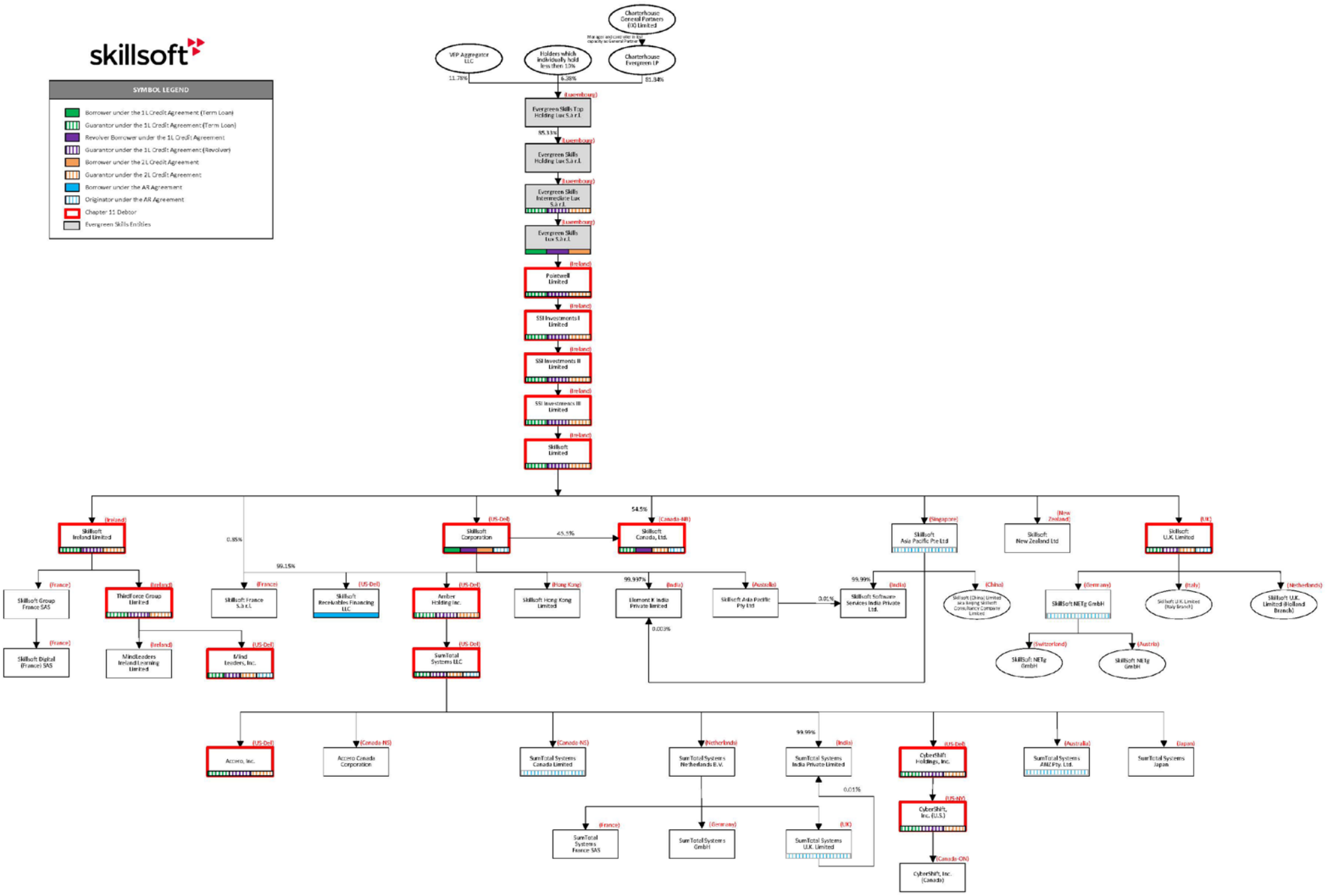
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
Skillsoft Corporation
Skillsoft Canada, Ltd.
54.5%
45.5%
0.85%
99.15%
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
99.997%
99.99%
0.01%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
0.01%
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the debtor's equity interest.

☒ The following are the debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
SSI Investments III Limited 2nd Floor, 1-2 Victoria Buildings Haddington Road Dublin 4, D04 XN32 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Skillsoft Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB M

Voluntary Petition of Skillsoft Ireland Limited

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Skillsoft Ireland Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

Block 4 Belfield Office Park
Number Street

Clonskeagh

Dublin 4 Ireland D04 V972
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000014

Debtor Skillsoft Ireland Limited Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Skillsoft Ireland Limited Name — Case number (if known) 20-____ ( )

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor Skillsoft Ireland Limited Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

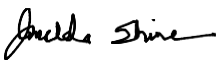
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

SKILLSOFT IRELAND LIMITED

This Power of Attorney is made on 14 June 2020 by **Skillsoft Ireland Limited** registered number 95413 having its registered office at Block 4, Belfield Office Park, Clonskeagh, Dublin 4, D04 V972 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent); and

5. US law Grant of Security Interest in Patent Rights made by the Company, amongst others (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

6. US law Grant of Security Interest in Trademark Rights made by the Company, amongst others (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

7. US law Grant of Security Interest in Copyright Rights made by the Company, amongst others, (as Grantor) in favour of in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

8. Canadian law Intellectual Property Security Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

9. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

10. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
SKILLSOFT IRELAND LIMITED by

Director

Fill in this information to identify the case:

Debtor name: Skillsoft Ireland Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Skillsoft Ireland Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Skillsoft Ireland Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Skillsoft Ireland Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

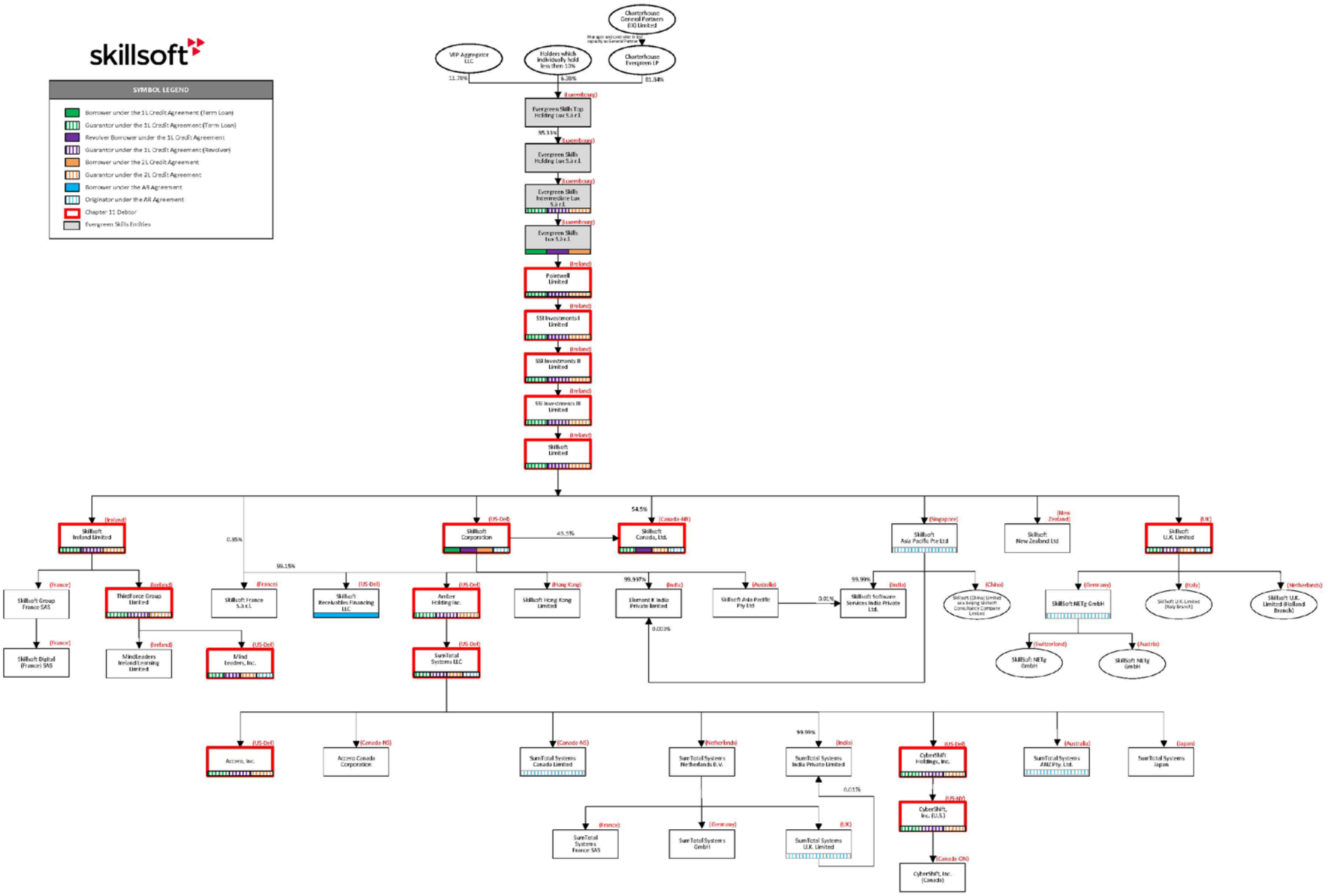
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
99.15%
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
Skillsoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Skillsoft Ireland Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB N

Voluntary Petition of ThirdForce Group Limited

Docket #0001 Date Filed: 6/14/2020

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

❑ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name ThirdForce Group Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

Block 4 Belfield Office Park
Number Street

Clonskeagh

Dublin 4 Ireland D04 V972
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

20115322006140000000000015

Debtor ThirdForce Group Limited Case number (if known) 20-____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor ThirdForce Group Limited Name — Case number (if known) 20-____ ( )

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor: See Schedule 1 — Relationship: See Schedule 1

District: See Schedule 1 — When: June 14, 2020 (MM / DD/ YYYY)

Case number, if known: _____

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor ThirdForce Group Limited Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

CERTIFICATE OF A DIRECTOR OF

POINTWELL LIMITED**, COMPANY NO. 540778**
SSI INVESTMENTS LIMITED, **COMPANY NO. 480475**
SSI INVESTMENTS II LIMITED, **COMPANY NO. 480476**
SSI INVESTMENTS III LIMITED, **COMPANY NO. 470477**
SKILLSOFT LIMITED, **COMPANY NO. 148294**
SKILLSOFT IRELAND LIMITED, **COMPANY NO. 95413**
THIRDFORCE GROUP LIMITED, **COMPANY NO. 468837**
(the "**Companies**" and any one of them being the "**Company**")

June 14, 2020

I, the undersigned, being a Director of each of the Companies do HEREBY CERTIFY that the following resolutions were passed at a meeting of the board of directors (in each case, a "**Board of Directors**") of each of the Companies (the "**Board Resolutions**") which were duly convened and quorate and were held on June 14, 2020 and the following resolutions set out were duly passed and have not been amended or revoked.

WHEREAS, each Board of Directors has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisors of the applicable Company regarding the liabilities and liquidity of such Company and their respective subsidiaries and the impact of the foregoing on such Company's business;

WHEREAS, each Board of Directors has had the opportunity to consult with the management and the legal and financial advisors of the applicable Company to fully consider, and have considered, the strategic alternatives available to such Company; and

WHEREAS, after such considerations, each Board of Directors approved the following resolutions:

Commencement of Chapter 11 Cases

RESOLVED, that it is in the interests of each Company, having regard to the interests of its creditors, that a petition be filed with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

RESOLVED, that any director of such Company (other than the CCP Nominated Directors) and/or Mr. John Frederick (each such person an "**Authorized Person**"), in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, to negotiate, execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of such Company, all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents as such Authorized Person considers necessary, appropriate or advisable for the purpose of seeking such relief (the "**Chapter 11 Filing**") with such changes therein and additions thereto as any such Authorized Person may deem necessary, appropriate or advisable, (the execution and delivery of any of the Chapter 11 Filing by any such Authorized Person with any changes and/or additions thereto to be conclusive evidence that any such Authorized Person deemed such changes and/or additions to meet such standard); and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's chapter 11 case (the "**Chapter 11 Case**" which term as used herein shall also be construed to include anything in connection with the DIP Transaction (as defined below)) or the Chapter 11 Filing, including, without limitation, (i) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Chapter 11 Case with a view to the successful prosecution of the Chapter 11 Case (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

Debtor-in-Possession

RESOLVED, that it was in the interests of each Company, having regard to the interests of its creditors, that Pointwell Limited participate in the debtor-in-possession finance transaction under a senior secured super-priority debtor-in-possession credit agreement (the "**DIP Credit Agreement**"), between, amongst others, Skillsoft Corporation as the DIP Borrower, Pointwell Limited as the Parent, the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the DIP Borrower a term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Transaction**") and that each Company enter into and perform the obligations required in connection with such DIP Transaction under the following documents (i) the DIP Credit Agreement; (ii) a debtor in possession guarantee between the DIP Agent, the DIP Borrower and each Company, amongst others, (iii) an Irish debenture between the Company, amongst others, and the DIP Agent, (iv) a US security agreement between the Company, amongst others, and the DIP Agent, (v) a US pledge agreement between the Company, amongst others, and the DIP Agent together with each additional security document as considered and approved by each Company as applicable, (vi) an amended and restated inter company loan note by the Companies party thereto as payor and/or payee as applicable and (vii) director's certificate signed by any Director in favour of the DIP Agent, for and on behalf of the DIP Lenders, certifying information about the Company and other matters more specifically set out therein (the "**Corporate Certificate**") (the documents at (i) – (vii) being the "**DIP Transaction Documents**");

RESOLVED, that the DIP Transaction be and is hereby approved;

RESOLVED, that the DIP Transaction Documents be and are hereby approved in the form produced to the meeting, subject to such amendments as any Authorized Person or Attorney may consider necessary, appropriate or desirable in his or her absolute discretion (the execution and delivery of any DIP Transaction Documents by any such Authorized Person or Attorney with any amendments thereto to be conclusive evidence that any Authorized Person or Attorney deemed such amendments to meet such standard);

RESOLVED, that any Authorized Person and any Attorney, in each case, acting singly or jointly, be and is hereby authorized , empowered and directed, in the name and on behalf of such Company, to sign or execute (including by means of electronic signature) and deliver, file, record and/or despatch any notice, acknowledgement filing, recording, instrument, utilisation request, certificate, stock or note power, agreement or other document to be signed, executed and delivered, filed, recorded and/or despatched by it as he or she (in his or her absolute discretion) may consider

necessary, appropriate or desirable in connection with the DIP Transaction and/or arising out of the delivery and execution of the DIP Transaction Documents (together the "**Ancillary DIP Documents**" and each an "**Ancillary DIP Document**") (the execution and delivery of any Ancillary DIP Document by any such Authorized Person or Attorney to be conclusive evidence that any Authorized Person or Attorney deemed such documents to meet such standard);

RESOLVED, that each DIP Transaction Document (other than the Corporate Certificate) and each Ancillary DIP Document be executed if expressed to be under hand by any Authorized Person or Attorney (including by means of electronic signature) or if expressed to be a deed or under seal by affixing the seal of such Company to such DIP Transaction Document or such Ancillary DIP Document, and having it countersigned in accordance with the Act or having it executed as a deed by any Authorized Person or Attorney (including, by means of electronic signature);

RESOLVED, that the Corporate Certificate be signed by a director of such Company (including by means of electronic signature);

RESOLVED, that the DIP Transaction Documents and Ancillary DIP Documents be delivered;

Retention of Advisors

RESOLVED, that in connection with the Chapter 11 Case, any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, on behalf of such Company, that such Authorized Person deems necessary, appropriate or advisable in connection with, or in furtherance of, the Chapter 11 Case, with a view to the successful prosecution of the Chapter 11 Case (such acts to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

RESOLVED, that the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as Irish counsel for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval;

RESOLVED, that the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and

solicitation agent and administrative advisor for such Company in the Chapter 11 Case, subject to Bankruptcy Court approval; and

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts and deeds, including, without limitation, (i) the payment of any consideration, (ii) the payment of fees, expenses and taxes such Authorized Person deems necessary, appropriate, or desirable, and (iii) negotiating, executing, delivering, performing, and filing any and all documents, motions, pleadings, applications, declarations, affidavits, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with the engagement of professionals contemplated by the foregoing resolutions (such acts and deeds to be conclusive evidence that such Authorized Person deemed the same to meet such standard);

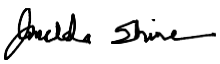
General

RESOLVED, that any Authorized Person, in each case, acting singly or jointly, be, and each hereby is, authorized, empowered, and directed, in the name and on behalf of such Company, to take and perform any and all further acts or deeds, including, but not limited to, (i) the negotiation of such additional agreements, amendments, modifications, supplements, reports, documents, instruments, applications, notes or certificates not now known but which may be required, (ii) the execution, delivery, performance under and filing (if applicable) of any of the foregoing, and (iii) the payment of all fees, consent payments, taxes and other expenses as any such Authorized Person, in his or her sole discretion, may approve or deem necessary, appropriate or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, deeds, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Authorized Person deemed the same to meet such standard;

RESOLVED, that each Authorized Person of such Company be appointed as an attorney (each an "**Attorney**") of such Company pursuant to a power of attorney in the form attached hereto as Exhibit I (the "**Power(s) of Attorney**") to sign such deeds or documents that such Authorized Person deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case and that any director or the company secretary be and is hereby authorized, empowered, and directed, in the name and on behalf of such Company to execute any such Power of Attorney;

RESOLVED, that if any agreement, deed, instrument, certificate or other document referred to in, or contemplated by, any of the foregoing resolutions is required to be executed by such Company under seal, the common seal of such Company be affixed thereto in accordance with the requirements of such Company's Constitution and the Companies Act 2014 of Ireland; and

RESOLVED, that any and all past actions heretofore taken by any Authorized Person in the name and on behalf of such Company in furtherance of any of the matters referred to in any of the foregoing resolutions recorded in these minutes be, and the same hereby are, ratified, confirmed, and approved in all respects.



……..
Director
For and on behalf of
the Companies

EXHIBIT I

POWER OF ATTORNEY

June 14 2020

POWER OF ATTORNEY

of

THIRDFORCE GROUP LIMITED

This Power of Attorney is made on 14 June 2020 by **ThirdForce Group Limited** registered number 468837 having its registered office at Block 4, Belfield Office Park, Clonskeagh, Dublin 4, D04 V972 (the "**Company**").

Terms not otherwise defined in this Power of Attorney shall have the meanings set out in the minutes of a meeting of the board of directors of the Company held on 14 June 2020 ("**Minutes**").

1. **Appointment and Powers**

By this Power of Attorney, the Company hereby irrevocably appoints each of the following:

Each director for the time being of the Company and John Frederick (each an "**Attorney**") jointly and severally to be the true and lawful attorney of the Company, in its name and on its behalf to:

1.1 consider, settle, agree, approve, sign under hand or execute as a deed (as appropriate) in either case by means of electronic signature or wet-ink signature, date and deliver all such deeds or documents that such Attorney deems necessary, appropriate, or desirable in connection with such Company's Chapter 11 Case (to include any deeds or documents relating to the Chapter 11 Filing and the DIP Transaction including, but not limited to the documents listed in Schedule 1 hereto) (together, the "**Transaction Documents**") subject to any amendments or variations as an Attorney may in his or her discretion agree and approve and to give effect to the transaction contemplated by the Transaction Documents (the "**Transaction**");

1.2 consider, settle, agree, approve, sign under hand or execute as a deed in either case by means of electronic signature or wet-ink signature, date and deliver any other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgments, memoranda, statements, certificates, orders or other documents as may in the opinion of an Attorney be necessary, desirable, required or requested in connection with the Transaction Documents or to give effect to the Transaction subject to any amendments or variations as an Attorney may in his or her discretion agree and approve; and

1.3 take any steps or do anything which an Attorney in his or her absolute and unfettered discretion, determines from time to time necessary, expedient, incidental, advisable or appropriate in connection with the Transaction Documents and to implement or give effect to the Transaction including, without limitation, the making and accepting of payments on behalf of the Company and effecting registration of any of the Transaction Documents or such other agreements, confirmations, acknowledgements, instruments, notices, requests, instructions, acknowledgements, memoranda, statements, certificates, orders or other documents referred to in paragraph 1.2 above in any public title document registries or mortgage / charge registries as may be required.

2. **Ratification, Validity and Indemnity**

2.1 The Company ratifies and shall ratify and confirm whatever an Attorney shall lawfully do or cause to be done in good faith in the exercise of the power granted by this Power of Attorney.

2.2 The Company unconditionally undertakes from time to time and at all times to indemnify and keep indemnified each Attorney against all actions, proceedings,

claims, demands, costs, damages, losses and expenses however arising from the proper exercise in good faith of any of the powers granted by this Power of Attorney.

2.3 This Power of Attorney shall be conclusive and binding upon the Company and no person or entity having dealings with an Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder done and all documents hereunder executed shall be valid and binding on the Company (as if the same had been done or executed by the Company) unless express notice of its revocation shall have been received by such person or entity.

2.4 Any person or entity dealing with an Attorney in good faith may accept a written statement signed by an Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

2.5 The particular powers enumerated in this Power of Attorney shall be given the widest interpretation.

3. **Termination**

The Power of Attorney shall terminate on the date which is 12 months after the date hereof on which date it shall automatically expire and until such time it shall be irrevocable.

4. **Governing Law and Jurisdiction**

This Power of Attorney shall be governed by and construed in accordance with Irish law. The courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney.

SCHEDULE 1

1. Debtor-in-Possession Guarantee made by the Company, amongst others, in favour of Wilmington Savings Fund Society, FSB (as Collateral Agent);

2. Irish law Debenture between the Company, amongst others, (as original chargors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

3. US law Security Agreement between the Company, amongst others, (as Grantors) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

4. US law Pledge Agreement between the Company, amongst others, (as Pledgor) and Wilmington Savings Fund Society, FSB (as Collateral Agent);

5. an amended and restated intercompany loan note between, amongst others, the Company in its capacity as payor and / or payee as applicable and the other parties thereto; and

6. Any and all further notices, acknowledgements, certificates, documents, deeds, supplements, amendments, agreements, communications and letters as may from time to time be required or determined by an Attorney to be necessary or desirable, in connection with the documents listed above or to give effect to the Transaction.

IN WITNESS whereof this Power of Attorney has been signed by the Company on the date first written above.

SIGNED for and on behalf of
THIRDFORCE GROUP LIMITED by

Director

Fill in this information to identify the case:

Debtor name: ThirdForce Group Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor ThirdForce Group Limited
Name

Case number (if known) 20-_____ ( )

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor ThirdForce Group Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor ThirdForce Group Limited Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
THIRDFORCE GROUP LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

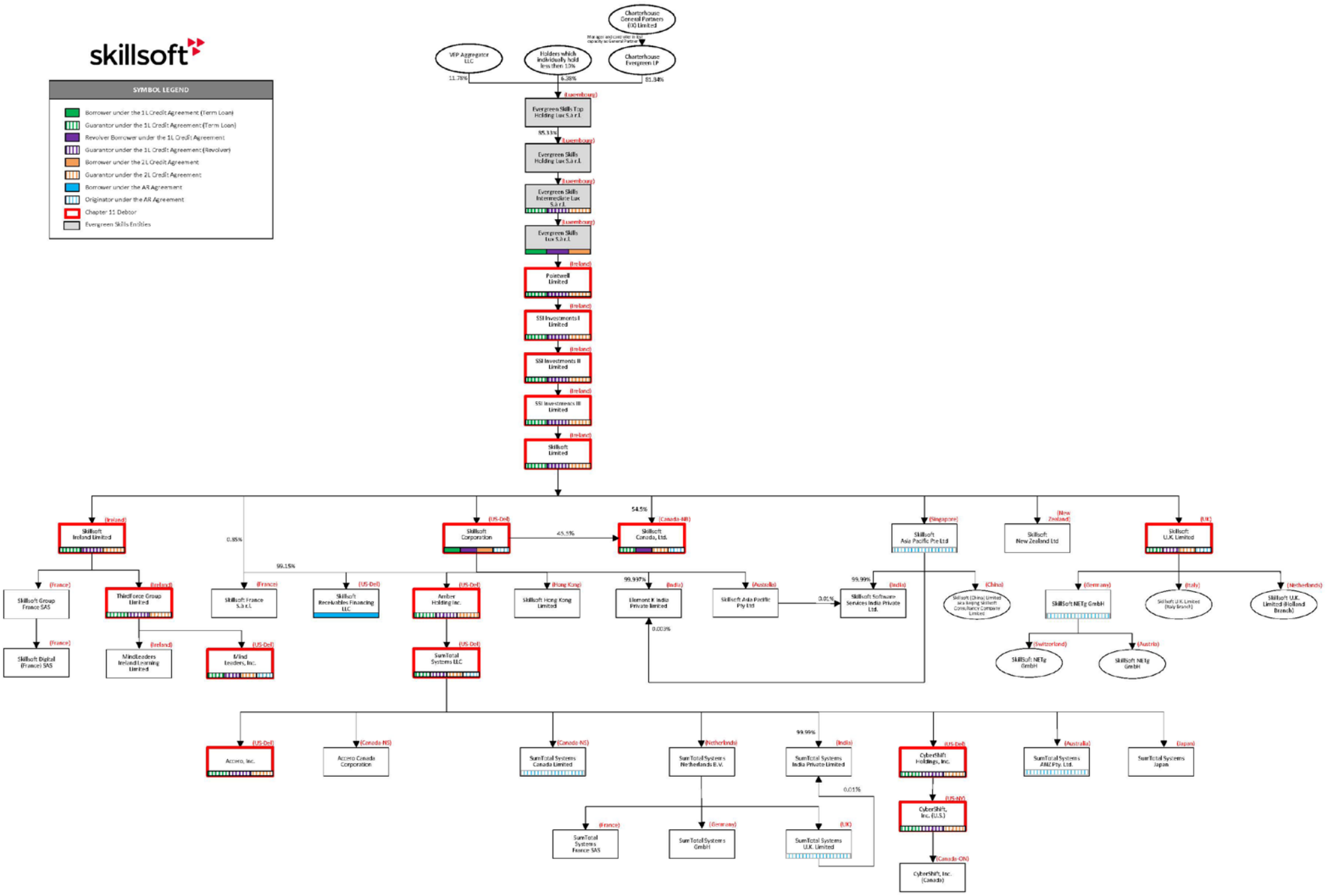
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
99.15%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
THIRDFORCE GROUP LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Ireland Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: ThirdForce Group Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB O

Voluntary Petition of Skillsoft U.K. Limited

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Skillsoft U.K. Limited

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

N/A

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

1st Floor 5 Arlington Square
Number Street

Downshire Way

Bracknell United Kingdom RG12 1WA
City State ZIP Code

County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

2011532200614000000000016

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Skillsoft U.K. Limited Name — Case number (if known) 20-____ ( )

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

SKILLSOFT U.K. LIMITED
(the "Company")

Registered number: 02051729
WRITTEN RESOLUTIONS OF THE SOLE DIRECTOR

Pursuant to the authority given by the Company's articles of association, I, the undersigned, being the sole Director of the Company (the "**Director**"), hereby report and resolve the following:

1 BACKGROUND AND PURPOSE OF THE RESOLUTIONS

1.1 It is noted that the sole Director has reviewed and has had the opportunity to ask questions about the materials presented by the management and the legal and financial advisers of the Company regarding the assets, liabilities and liquidity of the Company and its respective subsidiaries and group members, the strategic alternatives available to the Company and the impact of the foregoing on the Company's business.

1.2 It is further noted that the sole Director has had the opportunity to consult with the management and the legal and financial advisers of the Company to fully consider, and has considered, the strategic alternatives available to the Company.

1.3 Following such consultation, it is proposed that the Company will file a petition with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Chapter 11 Case**").

1.4 The purpose of these resolutions is to consider and, if thought fit, approve the taking of certain actions and the entering into of certain documents, in connection with the above, in particular:

1.4.1 the preparation, execution and filing with the Bankruptcy Court of the petition, including but not limited to the preparation, execution and filing of any debtor-in-possession financing; and

1.4.2 the engagement and retention of professional advisers by the Company in connection with the same,

(the "**Filing**").

2 DIRECTORS' DUTIES

2.1 The sole Director has considered the Filing with regard to his general duty to act, in good faith, in a manner, which would be most likely to promote the success of the Company for its members as a whole. In particular, the sole Director has considered the following duties owed by him to the Company as set out in the Companies Act 2006 (the "**Act**"), and has had regard to (amongst other things) the likely consequences of any decision in the long term:

2.1.1 section 171 of the Act, which requires a director to act in accordance with the Company's constitution and to only exercise powers for the purposes for which they are conferred;

2.1.2 section 172 of the Act, which requires a director to act the way she considers, in good faith, would be most likely to promote the success of the Company for the benefit of its members as a whole;

2.1.3 section 173 of the Act, which requires a director to exercise independent judgment;

2.1.4 section 174 of the Act, which requires a director to exercise reasonable care, skill and diligence;

2.1.5 section 175 of the Act, which requires a director to avoid situations of actual or potential conflicts of interest;

2.1.6 section 176 of the Act, which requires a director not to accept benefits from third parties; and

2.1.7 section 177 of the Act, which requires a director to declare any interest in a proposed transaction or arrangement.

3 REASONABLE PROSPECTS AND FILING

3.1 It is noted that:

3.1.1 the sole Director has received and carefully considered the Company's current and prospective financial situation; and

3.1.2 the Company has a reasonable prospect of successfully implementing a restructuring of the Company's financial obligations following the Filing.

3.2 The sole Director has received a draft of the proposed Filing.

3.3 After due and careful consideration, **IT IS RESOLVED** that continuing with the Filing is in the best interest of the Company and for the benefit of its creditors as a whole and will promote the commercial interest of the Company.

3.4 **IT IS FURTHER RESOLVED** that there is a reasonable prospect of successfully implementing a restructuring of the Company's financial obligations following the Filing and avoiding an insolvent liquidation or insolvent administration and that the Company will continue to trade as a going concern.

3.5 **IT IS FURTHER RESOLVED** that the sole Director will continue to monitor the financial position of the Company.

4 ENGAGEMENT AND RETENTION OF ADVISERS

4.1 It is noted that the Company will require advice from certain professional advisers in order to proceed with the Filing.

4.2 After due and careful consideration, **IT IS RESOLVED** that the sole Director, in the name and on behalf of the Company, may employ and retain all assistance by legal counsel, accountants, financial advisers, investment bankers and other professionals, that he may deem necessary, appropriate or advisable in connection with, or in furtherance of, the Filing, with a view to the successful prosecution of the petition for relief under provisions of chapter 11 of title 11 of the United States Code and specifically **IT IS FURTHER RESOLVED** that:

4.2.1 the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for the Company in the Chapter 11 Case;

4.2.2 the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for the Company in the Chapter 11 Case;

4.2.3 the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for the Company in the Chapter 11 Case;

4.2.4 the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial adviser for the Company in the Chapter 11 Case;

4.2.5 the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker for the Company in the Chapter 11 Case; and

4.2.6 the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation agent and administrative adviser for the Company in the Chapter 11 Case,

(together, being the "**Engagements**") in each case subject to Bankruptcy Court approval.

5 POWER OF ATTORNEY

5.1 It is noted that the Company proposed to appoint by power of attorney (in a form substantially similar to the draft power of attorney appended hereto) John Frederick of Skillsoft Corporation (the "**Attorney**") to be its attorney, in connection with the Filing, the Engagements and any matters ancillary thereto for the purposes of facilitating the execution, in the name and on behalf of the Company, of the documentation required in connection with the foregoing to which it is proposed that the Company is a party (the "**Power of Attorney**").

5.2 It is further noted that the Company proposed to approve, authorise and execute the Power of Attorney as a deed.

6 APPROVALS

6.1 **IT IS RESOLVED** that all acts and deeds of the Director taken prior to the date hereof in order to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, authorised, adopted, ratified, accepted and confirmed in all respects as the acts and deeds of the Company.

6.2 After due and careful consideration **IT WAS RESOLVED** that:

6.2.1 the granting by deed of the power to the Attorney to execute any and all related documents to which the Company is a party in connection with the Filing or the Engagements on behalf and in the name of the Company be and hereby is approved as in the best interests and for a proper purpose of the Company;

6.2.2 the Power of Attorney be approved substantially in the form annexed together with any changes thereto as the sole Director may, in his sole discretion to be necessary or desirable; and

6.2.3 following finalisation of the Power of Attorney pursuant to paragraph, the sole Director in the presence of a witness who attests his signature is authorised to execute and deliver the Power of Attorney.

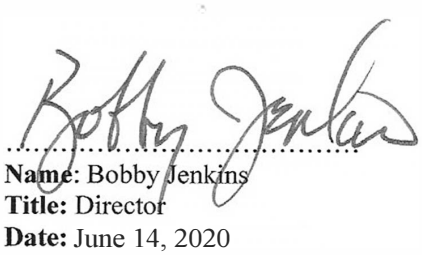
6.3 After careful consideration, the sole Director confirms his view is that it is in the best interests of the Company that the Filing be made and therefore **IT IS RESOLVED** that he or the Attorney will execute, deliver, and file with the Bankruptcy Court, in the name and on behalf of the Company, the Filing and all plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents in connection with the Filing or the Engagements (with such changes therein and additions thereto as he may deem necessary, appropriate or advisable).

6.4 **IT IS FURTHER RESOLVED** that the sole Director or the Attorney, in the name and on behalf of the Company, take and perform any and all further acts and deeds that he may deem necessary, appropriate, or desirable in connection with the Company's Chapter 11 Case and the Filing, including, without limitation, (i) the payment of fees, expenses and taxes; and (ii) negotiating, executing, delivering, performing and filing any and all additional documents, schedules, statements, lists, papers, agreements, certificates and/or instruments (or any amendments or modifications thereto) in connection with, or in furtherance of, the Filing with a view to the successful prosecution of the Chapter 11 Case, and if so approved such documents may be executed by the sole Director or the Attorney.

6.5 **IT IS FURTHER RESOLVED** that the sole Director or the Attorney be and hereby is authorised to approve and agree on behalf of the Company the final form of any and all other documents as may in his absolute discretion be deemed necessary or incidental to the Filing and Engagements, including, without limitation, agreeing any changes to such documents and upon their finalisation the execution by the sole Director or the Attorney.

6.6 **IT IS FURTHER RESOLVED** that the sole Director or the Attorney be and hereby is authorised to do all such acts and things and agree and execute on behalf of the Company all such other documents, instruments, certificates, notices and confirmations which, in the opinion of the Director or the Attorney, are necessary or desirable in order to facilitate the Filing, the Engagements and any other documents and generally to sign all such documents, certificates and notices, and give such representations, undertakings and assurances as may be required in connection therewith.

6.7 **IT IS FURTHER RESOLVED** that the Director, the Attorney or the Company's solicitors be authorised to make any appropriate entries in the books and registers of the Company and arrange for all necessary forms and documents in relation to the Filings, Engagements or Power of Attorney to be completed and filed as appropriate.



Name: Bobby Jenkins
Title: Director
Date: June 14, 2020

SKILLSOFT U.K. LIMITED

THIS POWER OF ATTORNEY is executed and delivered as a **DEED** on 14 June 2020

1 **BY THIS POWER OF ATTORNEY** Skillsoft U.K. Limited, a private limited company incorporated in England and Wales (registered number 02051729), whose registered office is at 1 Bartholomew Lane, London, England, EC2N 2AX (the "**Company**"), **HEREBY APPOINTS** John Frederick, Chief Administrative Officer of Skillsoft Corporation (the "**Attorney**"), for the Company and in the Company's name and on the Company's behalf (and with the power of delegation), with full power and authority from the date of this Power of Attorney to act alone and individually in any capacity to do all things, perform all acts and execute all documents (including as a Deed) which are necessary or considered desirable in the sole discretion of the Attorney, in each case in connection with, or for the purposes of, the Company filing a petition with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Filing**"), and in particular, but without prejudice to the generality of the foregoing:

1.1 to prepare, consider, negotiate, agree, settle, approve, perfect, sign, file and execute in the Company's name and deliver on the Company's behalf all or any of the following documents (including as a deed where relevant):

(a) any plans, petitions, schedules, statements, motions, lists, applications, pleadings, papers, affidavits, declarations, orders and other documents in connection with the Filing;

(b) any other documents, deeds, instruments, agreements, notices, requests, acknowledgements, memoranda, statements, certificates, orders or writings in connection with the Filing,

(together, the "**Documents**"); and

1.2 to do all acts and things necessary or expedient to give effect to the Documents and the Filing including (but not limited to):

(a) receiving notice of, attending and voting at any general meeting of the holders of securities in the Company or its parent or subsidiary entities (including meetings of the members of any particular class of security holders) and all or any adjournments of such meetings;

(b) consenting to short notice of all and any such meetings;

(c) signing any resolution as a holder of securities in the Company or any of its parent or subsidiary entities from time to time;

(d) nominating proxies on the Company's behalf and completing and returning proxy cards, and any other documents required to be signed by a holder of securities in the Company or any of its parent or subsidiary entities from time to time;

(e) making any amendments, alterations, deletions and additions to the Documents;

(f) dealing with and giving directions as to any moneys, securities, benefits, documents, notices or other communications (in whatever form) by right of the securities held by the Company in the Company or its parent or subsidiary entities from time to time or to be received or delivered to the Company in connection with the Filing; and

(g) consenting to the deduction from the cash consideration or other amounts otherwise due to the Company in connection with the Filings of: (i) the Company's proportionate share (equivalent to the total value which the Company's consideration bears to the aggregate

consideration due to all holders of securities in the Company pursuant to the Filing) of the fees and expenses (including any VAT in relation to such payments) incurred in connection with the Filing; and (ii) any relevant transaction or other taxes or deductions.

2 The Company ratifies and confirms and undertakes to promptly ratify and confirm from time to time and at all times whatever the Attorney shall lawfully do, may do or cause to be done under the authority or purported authority of this Power of Attorney, and to indemnify the Attorney and keep the Attorney fully indemnified against all losses, liabilities, damages, costs, claims or expenses which the Attorney may suffer or incur as a result of the exercise in good faith of the authorities and powers granted under this Power of Attorney.

3 The Attorney may delegate to any person (and may appoint any person(s) to act as substitute attorney(s) for the Company in the Attorney's place to exercise) all or any of the powers conferred on the Attorney by this Power of Attorney (including the power to appoint a delegate or substitute under this clause 3), and may revoke any such delegation or appointment at any time.

4 The Company agrees and acknowledges that any person or corporation dealing with the Attorney in good faith may accept a written statement signed by the Attorney to the effect that this Power of Attorney has not been revoked as conclusive evidence of that fact.

5 Unless revoked by the Company beforehand, this Power of Attorney shall terminate (without prejudice to anything done by the Attorney pursuant to it prior to termination) at midnight (London time) on the date which is 12 months after the date hereof.

6 This Power of Attorney and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, or any act performed or claimed to be performed under it, is governed by, and shall be construed in accordance with, the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Power of Attorney or its subject matter or formation or any act performed or claimed to be performed under it (including non-contractual disputes or claims).

IN WITNESS WHEREOF this **DEED** has been executed and delivered as a deed on the date first above written.

EXECUTED AND DELIVERED as a **DEED**)
By **SKILLSOFT U.K. LIMITED**)
acting by Bobby Jenkins)
) .....

in the presence of:

Jan L Avery
Signature of witness

Jan L. Avery
Name of witness

2516 Summit Rdg Trl
Address of witness Charlottesville, VA 22911

Company No: 02051729

THE COMPANIES ACT 2006

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

of

SKILLSOFT U.K. LIMITED
(the "Company")

I, the undersigned, being a director of the sole member of the Company who (at the circulation date of this resolution) has the right to vote on the resolution, hereby irrevocably agree pursuant to section 288 of the Companies Act 2006 to the passing of the following resolution by way of written resolution:

1. **THAT** the Company approves and/or ratifies the terms of and the transactions contemplated by and where required enters into (i) a Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof, by and among, *inter alios*, an indirect parent of the Company, Skillsoft Corporation, a Delaware corporation (the "**Borrower**"), the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Credit Agreement**"); (ii) a Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "**Guarantee**"), by and among *inter alios*, the Borrower, the Company and each of the other Companies as guarantors (the "**DIP Guarantors**") and the DIP Agent, pursuant to which the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement; (iii) a New York law governed security agreement (together with the exhibits and schedules attached thereto) dated on or about the date hereof (the "**US Security Agreement**"), by and among, *inter alios*, the Borrower, each of the subsidiary guarantors listed therein and the DIP Agent; (iv) a New York law governed pledge agreement (together with the exhibits and schedules attached thereto) dated on or about the date hereof (the "**US Pledge Agreement**") by and among, *inter alios*, the Borrower, each of the subsidiaries listed therein and the DIP Agent; (v) an English law debenture, dated on or about the date hereof (the "**Debenture**"), by and among, *inter alios*, the Company as chargor and the DIP Agent, pursuant to which it would provide security in relation to all liabilities of the Credit Parties under the DIP Credit Agreement and the other Credit Documents; and (vi) any other document, letter, certificate or notice required to be entered into in connection with the DIP Credit Agreement (the documents set out in paragraphs (i) to (vi), being the "**Documents**").

2. **THAT** the Director has authority to approve and/or ratify the terms of, and the transactions contemplated by the Documents and any related document, with such amendments as the Director of the Company in his or her sole discretion approves.

3. **THAT** the entry into the Documents (where relevant) is in the best interests of the Company's business and the entry into by the Company of the proposed transactions substantially on the terms set out in the Documents will promote the success of the Company for the benefit of its members as a whole.

4. **THAT** the Director is instructed to take any action in connection with the negotiation, execution, delivery and performance of the Documents and agree, execute and deliver any documents relating thereto (including any notices under the security documents), in each case as he or she shall deem necessary or appropriate.

5. **THAT** these resolutions have effect notwithstanding any provision of the Company's articles of association.

Please read the notes at the end of this document before signifying your agreement to the resolution.

The undersigned, a person entitled to vote on the above resolution on 6/14 2020 hereby irrevocably agrees to the ordinary resolutions set out above.

Bobby Jenkins

.....

For and on behalf of Skillsoft Limited

NOTES

1. You can choose to agree to all of the resolutions or none of them but you cannot agree to only some of the resolutions. If you agree to all of the resolutions, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company by delivery to Weil, Gotshal & Manges (London) LLP acting on behalf of the Company.

2. Once you have indicated your agreement to the resolution, you may not revoke your agreement.

SKILLSOFT UK LIMITED
(the "**Company**")

Registered Number: 02051729

WRITTEN RESOLUTIONS OF THE SOLE DIRECTOR

Pursuant to the authority given by regulation 93 of Table A, the undersigned, being the sole Director of the Company, hereby reports and resolves the following:

1 OPENING

1.1 The Director was so interested by virtue of his directorships in companies which were also to be party to certain of the Documents (as defined below) and declared his interest in the matters to be considered in accordance with section s.177 of the Companies Act 2006 (the "**Act**"). By virtue of article 19 of the Company's articles of association (the "**Articles**"), each interested director could vote and count in the quorum in relation to the matters to be considered in this resolution.

1.2 Terms defined in the DIP Credit Agreement (as defined below) shall have the same meaning when used herein, unless otherwise defined.

2 PURPOSE OF THE RESOLUTION

2.1 It is noted that the Company desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "**DIP Credit Agreement**"), by and among, *inter alios*, an indirect parent of the Company, Skillsoft Corporation (the "**Borrower**"), the lenders from time to time party thereto (the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "**DIP Agent**"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "**DIP Commitments**").

2.2 In order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to (a)(i) the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order) and (ii) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "**Guarantee**"), by and among *inter alios*, the Borrower, the Company and each of the other Companies as guarantors (the "**DIP Guarantors**") and the DIP Agent, pursuant to which the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement and (b)(i) the entry by the Bankruptcy Court of the Interim DIP Order (and subsequently confirmed by the Final DIP Order).

2.3 It is noted that the Company desires to enter into, deliver and perform its obligations under an English law debenture, dated on or about the date hereof (the "**Debenture**"), by and among, *inter alios*, the Company as chargor and the DIP Agent as collateral agent, pursuant to which it would provide security in relation to all liabilities of the Obligors under the DIP Credit Agreement and the other Credit Documents.

2.4 It is noted that the purpose of these resolutions is to consider, and if thought appropriate, approve transactions and documentation relating to the DIP Credit Agreement and the other Credit Documents.

3 DOCUMENTS

3.1 The Director has considered the latest drafts of the following documents to which the Company may be a party to:

(a) the DIP Credit Agreement;

(b) the Guarantee;

(c) a NY law governed security agreement (together with the exhibits and schedules attached thereto) (the "**US Security Agreement**");

(d) a NY law governed pledge agreement (together with the exhibits and schedules attached thereto) (the "**US Pledge Agreement**", together with the US Security Agreement, the "**US Security Agreements**");

(e) the Debenture; and

(f) any other document, letter, certificate or notice required to be entered into in connection with the DIP Credit Agreement,

the documents set out in paragraphs (a) to (f), being the "**Documents**".

4 CONSIDERATION

4.1 The Director has considered the provisions of the Documents. In particular, it is noted that:

(a) there exist various provisions of the Documents dealing with repayment, interest rates and fees;

(b) the Company would be required to make the representations and warranties set out in the Documents;

(c) the Company would be bound by the undertakings set out in the Documents (including in particular the restrictions imposed on the conduct of the Company's business and the requirement to comply with certain financial covenants);

(d) DIP Lenders would be entitled to demand repayment of the Facilities if any of the events set out in the section entitled "Events of Default" of the DIP Credit Agreement occurred;

(e) that the guarantee provisions in the Guarantee require the Company to give a guarantee and indemnity in favour of the Secured Parties in respect of all of the Credit Parties' obligations under the Credit Documents, (including the obligations of any Additional Guarantors) and that the obligations of the Company under the guarantee and indemnity would continue notwithstanding any amendment or supplement, variation, increase, extension or addition to, restatement or novation of any of the Credit Documents; and

(f) that the Debenture and the US Security Agreements would (where relevant) create fixed and floating charges over all of the Company's assets and undertaking to secure all of its and any other Credit Party's present or future obligations to any Secured Party under any Credit Document, whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety.

4.2 The Director considered the terms of the Documents, understanding fully their effect and implications for the Company and agreed that the undertakings and covenants could properly be given and that no limits on the power of the Company or its Directors to borrow money, to give guarantees or to create security would be exceeded and no other obligations on the Company contravened.

4.3 The Director considered his general duties including, but not limited to, his obligations under Part 10, Chapter 2 and s. 172 of the 2006 Act and the Documents and formed the opinion that it was to the commercial benefit and advantage of the Company and likely to promote the success of the Company to enter into the Documents.

5 SHAREHOLDER APPROVAL

5.1 It is proposed that the execution of the Documents by the Company be approved by a written resolution of the sole shareholder of the Company. The Director considered the draft written resolution for the purposes of obtaining shareholder approval (the "**Shareholder Resolution**").

5.2 It is accordingly agreed and resolved that the Shareholder Resolution be proposed and circulated to the shareholder for its consideration and approval with such Shareholder Resolution accompanied by a statement informing the member on how to sign the agreement to the Shareholder Resolution and the date by which such Shareholder Resolution must be passed.

6 RESOLUTIONS

IT IS RESOLVED:

6.1 that the terms of and the transactions contemplated by the Documents be, and they are hereby, approved;

6.2 that the entry by the Company into the Documents (where relevant) is, in good faith judgment of the Director of the Company for the commercial benefit of the Company and it is most likely to promote the success of the Company for the benefit of its members as a whole;

6.3 that the Company execute (where relevant), deliver and perform its obligations under the Documents;

6.4 that any Director of the Company be and is hereby authorised to execute the Documents (where relevant) on behalf of the Company in the form circulated to the Directors in connection with this written resolution subject to such amendments and modifications as the Director executing the same may in his or her absolute discretion agree and so that the Director's signature of the relevant Document shall be conclusive evidence of agreement to such amendments or modifications;

6.5 that any Director or the Secretary of the Company be and is hereby authorised to sign and deliver all certificates, documents and notices to be signed and delivered by the Company under or in connection with the Documents;

6.6 that any Director be and is hereby authorised to do all such acts and things and agree and execute all such documents as may be required in order to implement the transactions contemplated by the Documents, in each case in such manner or form as that Director may in his or her absolute discretion think fit;

6.7 that Borrower be and is hereby authorised to act as the Company's agent in relation to the Credit Documents to supply all information concerning the Company and contemplated by the Credit Documents to the Secured Parties and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by the Company (notwithstanding that they may affect the Company) without further reference to or the consent of the Company;

6.8 that, pursuant to section 323 of the Companies Act 2006, any Director of the Company be appointed a corporate representative of the Company at any meeting of shareholders or for the purpose of executing a shareholders' resolution of any company of which the Company is a member from time to time and, at his or her discretion, may exercise the powers of the Company as he or she may think fit in relation to any such Company in connection with the Credit Documents; and

6.9 that if any Document or related document agreed by a Director needs to be executed as a deed, that it be executed under the common seal of the Company or executed as a deed in accordance with section 46 of the Companies Act 2006.

7 REASONABLE PROSPECTS

7.1 It is noted that:

(a) the sole Director has received and carefully considered the Company's current and prospective financial situation; and

(b) the Company has a reasonable prospect of successfully implementing a restructuring of the Company's financial obligations following the entry by the Company into the Documents.

7.2 After due and careful consideration, **IT IS RESOLVED** that entry by the Company into the Documents (where relevant) is in the best interest of the Company and for the benefit of its creditors as a whole and will promote the commercial interest of the Company.

7.3 **IT IS FURTHER RESOLVED** that there is a reasonable prospect of successfully implementing a restructuring of the Company's financial obligations following entry into the Documents and avoiding an insolvent liquidation or insolvent administration and that the Company will continue to trade as a going concern.

7.4 **IT IS FURTHER RESOLVED** that the sole Director will continue to monitor the financial position of the Company.

8 FILINGS

It is resolved that the Secretary be instructed to complete all necessary and appropriate entries in the books and registers of the Company and to arrange for the relevant resolutions and forms to be filed with the Registrar of Companies.

The undersigned, being the sole Director of the Company, hereby irrevocably agrees to the resolutions above being passed.

Signed: ……

Dated: ……06/14/2020……..

Name: Bobby Jenkins
Title: Director

Fill in this information to identify the case:

Debtor name: Skillsoft U.K. Limited

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Skillsoft U.K. Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Skillsoft U.K. Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Skillsoft U.K. Limited
Name

Case number (if known) 20-_____ ( )

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT U.K. LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

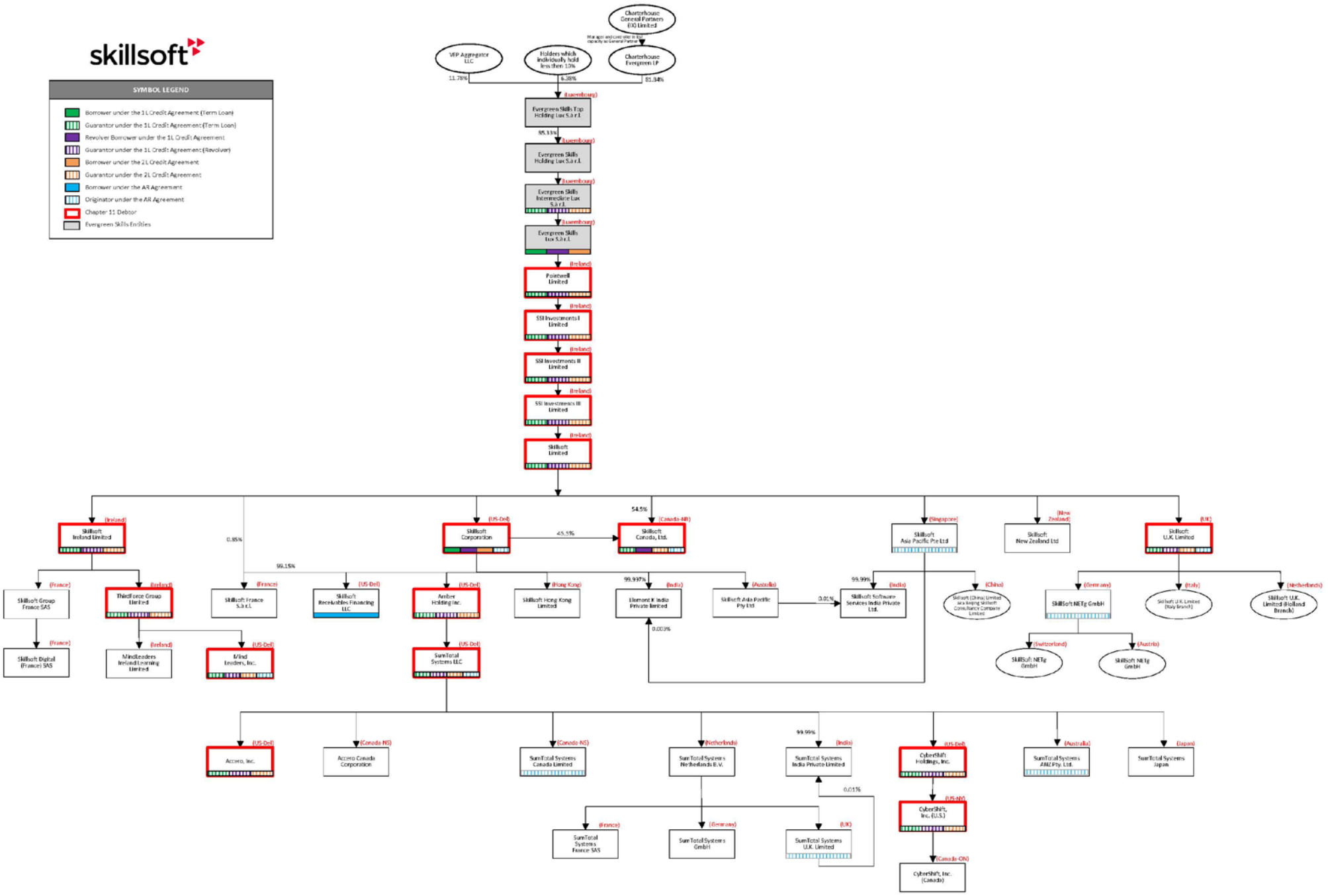
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
99.15%
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
Skillsoft NETg GmbH
Skillsoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT U.K. LIMITED,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	100%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Skillsoft U.K. Limited

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB P

Voluntary Petition of Skillsoft Canada, Ltd.

Fill in this information to identify the case:

United States Bankruptcy Court for the District of Delaware

Case number (*if known*): _____ Chapter 11

☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy 04/20

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals,* is available.

1. Debtor's name Skillsoft Canada, Ltd.

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

Element K Canada, Inc.

3. Debtor's federal Employer Identification Number (EIN) N/A

4. Debtor's address

Principal place of business

20 Knowledge Park Drive
Number Street

Fredericton New Brunswick E3C 2P5
City State ZIP Code

Canada
County

Mailing address, if different from principal place of business

300 Innovative Way, Suite 201
Number Street

P.O. Box

Nashua New Hampshire 03062
City State ZIP Code

Location of principal assets, if different from principal place of business

Number Street

City State ZIP Code

5. Debtor's website (URL) www.skillsoft.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify:

20115322006140000000000017

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-_____ ( )
Name

7. Describe debtor's business

A. *Check one:*

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. *Check all that apply:*

- ☐ Tax- exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

5112 – Software Publishers

8. Under which chapter of the Bankruptcy Code is the debtor filing?

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

Check one:

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. *Check all that apply*:
  - ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,725,625. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1). Its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $7,500,000 **and it chooses to proceed under Subchapter V of Chapter 11.** If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
  - ☒ A plan is being filed with this petition.
  - ☒ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
  - ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- ☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No
- ☐ Yes District _____ When _____ (MM/ DD/ YYYY) Case number _____

  District _____ When _____ (MM / DD/ YYYY) Case number _____

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-____ ( )
Name

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

List all cases. If more than 1, attach a separate list.

☐ No

☒ Yes

Debtor	See Schedule 1	Relationship	See Schedule 1
District	See Schedule 1	When	June 14, 2020 MM / DD/ YYYY
Case number, if known			

11. Why is the case filed in this district?

Check all that apply:

☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.

☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (*Check all that apply.*)

☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

☐ It needs to be physically secured or protected from the weather.

☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

☐ Other _____

Where is the property?

Number Street

City State ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency _____

Contact Name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

☒ Funds will be available for distribution to unsecured creditors.

☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

(on a consolidated basis with all affiliated debtors)

☐ 1-49	☐ 1,000-5,000	☐ 25,001-50,000
☐ 50-99	☐ 5,001-10,000	☐ 50,001-100,000
☐ 100-199	☒ 10,001-25,000	☐ More than 100,000
☐ 200-999		

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-_____ ( )
Name

15. Estimated assets (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion
16. Estimated liabilities (on a consolidated basis with all affiliated debtors)	☐ $0-$50,000	☐ $1,000,001-$10 million	☐ $500,000,001-$1 billion
	☐ $50,001-$100,000	☐ $10,000,001-$50 million	☒ $1,000,000,001-$10 billion
	☐ $100,001-$500,000	☐ $50,000,001-$100 million	☐ $10,000,000,001-$50 billion
	☐ $500,001-$1 million	☐ $100,000,001-$500 million	☐ More than $50 billion

Request for Relief, Declaration, and Signatures

WARNING – Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM / DD / YYYY

✘ /s/ John Frederick
Signature of authorized representative of debtor

John Frederick
Printed name

Authorized Signatory
Title

18. Signature of attorney

✘ /s/ Mark D. Collins
Signature of attorney for debtor

Date June 14, 2020
MM / DD / YYYY

Mark D. Collins	Gary T. Holtzer
Printed Name	
Richards, Layton & Finger, P.A.	Weil, Gotshal & Manges LLP
Firm Name	
One Rodney Square, 920 North King Street	767 Fifth Avenue
Address	
Wilmington, Delaware 19801	New York, New York 10153
City/State/Zip	
(302) 651-7700	(212) 310-8000
Contact Phone	
collins@rlf.com	gary.holtzer@weil.com
Email Address	
2981 Delaware	
Bar Number State	

Schedule 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the affiliated entities listed below, including the debtor in this chapter 11 case, filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**"). A motion will be filed with the Court requesting that the chapter 11 cases of the entities listed below be consolidated for procedural purposes only and jointly administered, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, under the case number assigned to the chapter 11 case of Skillsoft Corporation.

COMPANY	CASE NUMBER	DATE FILED	DISTRICT
Skillsoft Corporation	20-_____( )	June 14, 2020	Delaware
Amber Holding Inc.	20-_____( )	June 14, 2020	Delaware
SumTotal Systems LLC	20-_____( )	June 14, 2020	Delaware
MindLeaders, Inc.	20-_____( )	June 14, 2020	Delaware
Accero, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift Holdings, Inc.	20-_____( )	June 14, 2020	Delaware
CyberShift, Inc.	20-_____( )	June 14, 2020	Delaware
Pointwell Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments I Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments II Limited	20-_____( )	June 14, 2020	Delaware
SSI Investments III Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Ireland Limited	20-_____( )	June 14, 2020	Delaware
ThirdForce Group Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft U.K. Limited	20-_____( )	June 14, 2020	Delaware
Skillsoft Canada, Ltd	20-_____( )	June 14, 2020	Delaware

RESOLUTIONS OF THE BOARD OF DIRECTORS OF SKILLSOFT CANADA, LTD.
(the "**Corporation**")

Resolutions in writing of the board of directors of the Corporation adopted pursuant to Section 75(1) of the *Business Corporations Act* (New Brunswick) effective as of June 14, 2020.

WHEREAS the Corporation is a legal person incorporated pursuant to the *Business Corporations Act* (New Brunswick), with a head office in Fredericton, New Brunswick;

WHEREAS the Corporation and its shareholders (the "**Shareholders**"), Skillsoft Corporation, a corporation duly incorporated under the laws of Delaware, and Skillsoft Limited, a corporation duly incorporated under the laws of the Republic of Ireland, as well as other entities of the Skillsoft corporate group, are currently facing serious liquidity issues which prevent them from meeting their obligations as they generally become due;

WHEREAS it is therefore desirable and in the best interests of the Corporation and its stakeholders to file, along with its Shareholders and certain other entities of the Skillsoft corporate group, a voluntary petition (the "**US Chapter 11 Petition**") with the United States Bankruptcy Court for the District of Delaware (the "**US Court**") seeking relief under the provisions of chapter 11 of title 11 of the United States Code (the "**Chapter 11 Proceedings**");

WHEREAS it is therefore desirable and in the best interests of the Corporation and its stakeholders that, following the issuance by the US Court of an order granting the US Chapter 11 Petition and relief sought therein, the Corporation file a petition under the provisions of the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") with the Court of Queen's Bench of New Brunswick (the "**Canadian Court**") with a view to have the Chapter 11 Proceedings recognized in Canada (the "**CCAA Recognition Proceedings**");

NOW, THEREFORE, BE IT RESOLVED:

The Chapter 11 Proceedings and the CCAA Recognition Proceedings

THAT the Corporation be and is hereby authorized, empowered, and directed to:

(a) initiate the Chapter 11 Proceedings by filing a petition with the US Court seeking relief under the provisions of chapter 11 of title 11 of the United States Code;

(b) appoint the Corporation as foreign representative to initiate the CCAA Recognition Proceedings by filing a petition with the Canadian Court seeking the recognition of the Chapter 11 Proceedings under the provisions of the CCAA;

(c) seek the assistance of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or any other jurisdiction to recognize the Chapter 11 Proceedings or the CCAA Recognition Proceedings and to give effect to any order made in the context of the Chapter 11 Proceedings or the CCAA Recognition Proceedings; and

(d) take any other action or proceeding in Canada, the United States of America or any other jurisdiction to contest or defend any action or proceeding by any creditor or other stakeholder in Canada, the United States of America or any other jurisdiction;

THAT any of John Frederick, Chief Administrative Officer of Skillsoft Corporation, or any director or officer of the Corporation (each, an "**Authorized Person**") be and hereby is authorized, empowered, and directed to:

(a) execute and file in the name and on behalf of the Corporation, all petitions, applications, pleadings, motions, affidavits, and other documents, and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, investment bankers and other professionals, and to take and perform any and all further acts and deeds which such Authorized Person deems necessary, proper, or desirable in connection with the Chapter 11 Proceedings and CCAA Recognition Proceedings, including, without limitation, negotiating, executing, delivering and performing any and all documents, agreements, certificates and/or instruments in connection with the Chapter 11 Proceedings and CCAA Recognition Proceedings and professional retentions set forth in this resolution, with a view to the successful prosecution of the Chapter 11 Proceedings and CCAA Recognition Proceedings; and

(b) take any action as such Authorized Person, in his or her opinion, deems necessary in connection with the Chapter 11 Proceedings and CCAA Recognition Proceedings;

THAT the law firm of Weil, Gotshal & Manges LLP, located at 767 Fifth Avenue, New York, New York 10153, is hereby retained as counsel for the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the law firm of William Fry, located at 2 Grand Canal Square, Dublin 2, Ireland is hereby retained as counsel for the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the law firm of Richards, Layton & Finger, P.A., located at One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, is hereby retained as local counsel for the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the firm of AlixPartners, LLP, located at 909 Third Avenue, New York, New York 10022, is hereby retained as financial advisor for the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the firm of Houlihan Lokey Capital, Inc., located at 10250 Constellation Boulevard, 5th Floor, Los Angeles, California 90067, is hereby retained as investment banker the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the firm of Kurtzman Carson Consultants LLC, located at 222 N. Pacific Coast Highway, 3rd Floor, El Segundo, California 90245, is hereby retained as claims, noticing and solicitation

agent and administrative advisor for the Corporation in the Chapter 11 Proceedings, subject to US Court approval;

THAT the firm of Stikeman Elliott LLP, located at 1155 Boulevard René-Lévesque West, Suite 4100, Montréal, Québec, H3B 3V2, is hereby retained as counsel for the Corporation in the CCAA Recognition Proceedings;

THAT the firm of Cox & Palmer LLP, located at Brunswick Square, 1 Germain St, Suite 1500, Saint John, New Brunswick, E2L 4V1, is hereby retained as local counsel for the Corporation in the CCAA Recognition Proceedings;

THAT the Corporation be and is hereby authorized to appoint Richter Advisory Group Inc., located at Richter Tower, 1981 McGill College Ave, Montreal, Quebec, H3A 0G6 as information officer to the Canadian Court in the CCAA Recognition Proceedings, subject to Canadian Court approval;

General Authorization

THAT any Authorized Person of the Corporation be and is hereby authorized to act on behalf of the Corporation and to do any act, to sign any document or to enter into any agreement necessary to give effect to the present resolution;

Ratification

THAT all actions taken, and instruments executed by, any Authorized Person of the Corporation prior to the date hereof in connection with, incidental to or arising out of the Chapter 11 Proceedings and CCAA Recognition Proceedings are hereby approved, ratified and confirmed.

[*Signature page follows*]

Pursuant to the *Business Corporations Act* (New Brunswick), the directors of the Corporation have signed this resolution as of the date first referenced above.

Bobby Jenkins

Gregory J. Porto

[Signature Page to Written Resolutions]

Pursuant to the *Business Corporations Act* (New Brunswick), the directors of the Corporation have signed this resolution as of the date first referenced above.

Bobby Jenkins

Gregory J. Porto

[Signature Page to Written Resolutions]

Execution Version

RESOLUTIONS
OF THE
DIRECTORS OF
SKILLSOFT CANADA, LTD.

June 14, 2020

The undersigned, being all of the members of the board of directors (the "Board of Directors") of Skillsoft Canada, Ltd. (the "Corporation"), do hereby consent to, adopt and approve, by unanimous written consent, the following resolutions and each and every action effected thereby with the same force and effect as if they had been adopted at a duly convened meeting of the Board of Directors, and direct that these resolutions be filed with the minutes of the proceedings of the Board of Directors:

WHEREAS, Skillsoft Corporation, a Delaware corporation (the "Borrower"), desires to enter into, deliver and perform its obligations under that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, dated on or about the date hereof (the "DIP Credit Agreement"), by and among, *inter alios*, Pointwell Limited, as parent, the Borrower, the lenders from time to time party thereto (the "DIP Lenders"), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent for the DIP Lenders (in such capacity, including any successor thereto, the "DIP Agent"), pursuant to which the DIP Lenders will make available to the Borrower a delayed draw term loan credit facility in an aggregate principal amount of $60,000,000 (the "DIP Commitments");

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to (a)(i) the entry by the Canadian Bankruptcy Court pursuant to Part IV of the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") of the Canadian Interim Order (and subsequently confirmed by the Canadian Final Order) and (ii) that certain Debtor-in-Possession Guarantee, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Guarantee"), by and among the Corporation and each of the other guarantors from time to time party thereto (the "DIP Guarantors"), and the DIP Agent, the DIP Guarantors shall guarantee the Obligations under the DIP Credit Agreement, (b)(i) the entry by the Canadian Bankruptcy Court pursuant to Part IV of the CCAA of the Canadian Interim Order (and subsequently confirmed by the Canadian Final Order) and (ii) that certain Canadian DIP General Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Canadian Security Agreement"), by the Corporation in favour of the DIP Agent, the Corporation shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of the Corporation's material assets (with the priority fully described therein), (c)(i) the entry by the Bankruptcy Court of the Interim Order (and subsequently confirmed by the Final Order) and (ii) that certain Debtor-in-Possession Security Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "U.S. Security Agreement" and, together with the Canadian Security Agreement, the "Security Agreements"), by and among, *inter alios*, the Borrower, the Corporation, each of the other parties thereto as grantors and the DIP Agent, the Borrower and each of the other parties thereto as grantors shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in substantially all of their respective material assets (with the priority fully described therein), and (d)(i) the entry by the Bankruptcy Court of the Interim Order (and subsequently confirmed by the Final Order) and (ii) that certain Debtor-in-Possession U.S. Pledge Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "U.S. Pledge Agreement"), by and among, *inter alios*, the Borrower and the DIP Agent, the Corporation and each of the other parties thereto as pledgors shall

grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in the Collateral (as defined described therein) (with the priority fully described therein);

WHEREAS, in order to induce the DIP Lenders to enter into the DIP Credit Agreement and make the DIP Commitments, pursuant to (a)(i) the entry by the Canadian Bankruptcy Court of the Canadian Interim Order pursuant to Part IV of the CCAA (and subsequently confirmed by the Canadian Final Order) and (ii) that certain Canadian DIP Pledge Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Borrower Pledge Agreement"), by and among the Borrower and the DIP Agent, the Borrower shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in all of the issued and outstanding shares in the capital of the Corporation owned by the Borrower (the "Borrower Corporation Shares") (with the priority fully described therein), and (b)(i) the entry by the Canadian Bankruptcy Court pursuant to Part IV of the CCAA of the Canadian Interim Order (and subsequently confirmed by the Canadian Final Order) and (ii) that certain Canadian DIP Pledge Agreement, dated on or about the date hereof (together with the exhibits and schedules attached thereto, the "Skillsoft Limited Pledge Agreement" and, collectively with the U.S. Pledge Agreement and the Borrower Pledge Agreement, the "Pledge Agreements"), by and among Skillsoft Limited, an Ireland limited liability company ("Skillsoft Limited"), and the DIP Agent, Skillsoft Limited shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in all of the issued and outstanding shares in the capital of the Corporation owned by Skillsoft Limited (the "Skillsoft Limited Shares" and, together with the Borrower Shares, the "Shares") (with the priority fully described therein), and (c)(i) the entry by the Bankruptcy Court of the Interim Order (and subsequently confirmed by the Final Order) and (ii) the U.S. Pledge Agreement, the Borrower and Skillsoft Limited shall grant to the DIP Agent, for the benefit of the DIP Lenders, a legal, valid, continuing and enforceable security interest in their respective Shares (with the priority fully described therein);

WHEREAS, the articles of amalgamation of the Corporation provide that no security (as defined in the *Securities Act* (New Brunswick)) issued by the Corporation, other than a non-convertible debt security, may be transferred, including any such transfer pursuant to the Pledge Agreements, except, *inter alia*, with the written consent of a majority of the members of the Board of Directors of the Corporation or with the consent of the majority of the shareholders of the Corporation;

WHEREAS, the Corporation will receive direct and indirect benefits as a result of the transactions contemplated by the DIP Credit Agreement and it is, thus, in the best interest of the Corporation to execute and deliver the Guarantee, the Security Agreements, the U.S. Pledge Agreement and the other DIP Financing Documents (as defined below), to which it is a party and perform its respective obligations thereunder, and to consent to and approve the pledges by the Borrower and Skillsoft Limited (the "Pledges") of their respective Shares in favour of the DIP Agent pursuant to the Pledge Agreements, any transfer of all or any portion of the Shares to the DIP Agent or its nominee or any other person upon the exercise of the rights of the DIP Agent under the Pledge Agreements and the transactions contemplated thereby; and

WHEREAS, the Board of Directors of the Corporation deems the Guarantee, the Security Agreements, the U.S. Pledge Agreement, the other DIP Financing Documents (as defined below), the execution and delivery thereof, the performance by the Corporation of its obligations thereunder and the transactions contemplated thereby, and the Pledges, any transfer of all or any portion of the Shares to the DIP Agent or its nominee or any other person upon the exercise of the rights of the DIP Agent under the Pledge Agreements and the transactions contemplated thereby, to be desirable,

advisable and in the best interests of the Corporation. Capitalized terms used herein are defined in the DIP Credit Agreement, as applicable, unless otherwise defined in these resolutions;

1. Debtor-in-Possession Financing

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Corporation has determined that it is in the best interest of the Corporation to engage in, and the Corporation will obtain benefits from, the lending transactions contemplated by the DIP Credit Agreement (the "DIP Financing") subject to approval by the Canadian Bankruptcy Court, which is necessary and appropriate to the conduct, promotion, and attainment of the business of the Corporation; and be it further

RESOLVED, that the form, terms, and provisions of each of (i) the DIP Credit Agreement, including the obligations of the Corporation as a Credit Party thereunder, (ii) the Guarantee, including the guaranty of the Obligations thereunder, (iii) the Security Agreements and the U.S. Pledge Agreement, including the grant of security interests thereunder, and (iv) any and all of the other agreements, including, without limitation, any guarantee, IP security agreements, control agreements, financing statements, certificates, documents and instruments authorized, executed, delivered, reaffirmed, verified and/or filed by the Corporation in connection with the DIP Financing (together with the Guarantee and the Security Agreements, the U.S. Pledge Agreement, collectively, the "DIP Financing Documents"), and the Corporation's performance of its obligations thereunder, are hereby, in all respects confirmed, ratified and approved; and be it further

RESOLVED, that any officer of the Corporation (each, an "Authorized Person") is hereby authorized, empowered, and directed, in the name and on behalf of the Corporation, to cause the Corporation to negotiate and approve the terms, provisions of and performance of, and to prepare, execute and deliver the DIP Financing Documents to which it is a party, in the name and on behalf of the Corporation under its corporate seal or otherwise, and such other documents, agreements, instruments and certificates as may be required by the DIP Agent or required by the DIP Financing Documents; and be it further

RESOLVED, that any Authorized Person of the Corporation is hereby authorized to (i) guarantee, and (ii) to grant security interests in, and liens on, any and all property of the Corporation as collateral pursuant to the DIP Financing Documents, in each case, to secure all of the obligations and liabilities of the Corporation and the Borrower thereunder and the other parties to the DIP Financing Documents to the DIP Lenders and the DIP Agent, and to authorize, execute, verify, file and/or deliver to the DIP Agent, on behalf of the Corporation, all agreements, documents and instruments required by the DIP Agent and/or the DIP Lenders in connection with the foregoing; and be it further

RESOLVED, that any Authorized Person of the Corporation is hereby authorized, empowered, and directed, in the name and on behalf of the Corporation, to take all such further actions, including to pay all fees and expenses, in accordance with the terms of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, proper, or advisable to perform the Corporation's obligations under or in connection with the DIP Financing Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions; and be it further

RESOLVED, that any Authorized Person is hereby authorized, empowered, and directed, in the name and on behalf of the Corporation, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions and extensions

of any of the DIP Financing Documents, which shall, in such Authorized Person's sole judgment, be necessary, desirable, proper or advisable; and be it further

RESOLVED, that the Corporation and the Board of Directors irrevocably and unconditionally consent to and approve the Pledges and any transfer of all or any portion of the Shares to the DIP Agent or its nominee or any other person upon the exercise of the rights of the DIP Agent under the Pledge Agreements, and any subsequent transfer of the Shares by the DIP Agent or its nominee or any other person in connection with any disposition of the Shares by the DIP Agent or its nominee or such other person, including the registration in the register of the Corporation of each such transfer of Shares; and be it further

RESOLVED, that forthwith upon the remedies under the Pledges becoming enforceable, the officer of the Corporation in charge of recording any transfer of securities in the books of the Corporation, or any transfer agent appointed for such purposes, shall, without any further action of the Board of Directors of the Corporation or otherwise, (i) record the transfer of the Shares to any person or persons designated by the DIP Agent, (ii) duly record the name and address of such transferee(s) in the place and stead of the relevant shareholder of the Corporation, (iii) cancel such certificate or certificates registered in the name of relevant shareholder of the Corporation, and (iv) issue in the name of and deliver free of charge to such transferee(s), such certificate or certificates representing the Shares; and be it further

2. General Authority.

RESOLVED, that each duly appointed officer (a "**Responsible Officer**") of the Corporation, who may act without the joinder of any other Responsible Officer, is hereby severally authorized, in the name of and on behalf of the Corporation, to take all such further actions, including, but not limited to, (i) the negotiation of such additional agreements, joinders, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently unknown but which may be required, (ii) the negotiation of such changes and additions to any agreements, amendments, supplements, consents, waivers, reports, documents, instruments, applications, notes or certificates currently existing or currently unknown but which may be required, (iii) the execution, delivery, filing (if applicable) and performance of any of the foregoing, and (iv) the payment of all fees, consent payments, taxes, indemnitees and other expenses as such Responsible Officer, in his or her sole discretion, may approve or deem necessary, convenient, appropriate, advisable or desirable in order to carry out the intent and accomplish the purposes of the foregoing resolutions and the transactions contemplated thereby, all of such actions, executions, deliveries, filings and payments to be conclusive evidence of such approval or that such Responsible Officer deemed the same to be so necessary, convenient, appropriate, advisable or desirable; and that all such actions, executions, deliveries, filings and payments taken or made at any time in connection with the transactions contemplated by the foregoing resolutions are hereby approved, adopted, ratified and confirmed in all respects as the acts and deeds of the Corporation as if specifically set out in these resolutions; and be it

RESOLVED FURTHER, that each Responsible Officer of the Corporation is hereby authorized to certify and deliver to any person to whom such certification and delivery may be deemed necessary or desirable in the opinion of such Responsible Officer, a true copy of the foregoing resolutions of the Corporation; and be it

RESOLVED FURTHER, that the authority conferred upon each Responsible Officer by these resolutions is in addition to, and shall in no way limit, such other authority as such Responsible Officer may have with respect to the subject matter of the foregoing resolutions, and

that the omission from these resolutions of any agreement or other arrangement contemplated by any of the agreements, instruments or documents described in the foregoing resolutions or any action to be taken in accordance with any requirement of any of the agreements, instruments or documents described in the foregoing resolutions shall in no manner derogate from the authority of such Responsible Officer to take all actions necessary, convenient, appropriate, advisable or desirable to consummate, effectuate, carry out or further the transactions contemplated by and the intents and purposes of the foregoing resolutions; and be it

RESOLVED FURTHER, that the execution, delivery and performance of each of the documents described in the foregoing resolutions is necessary, convenient, appropriate, advisable or desirable to the conduct, promotion or attainment of the business and purposes of the Corporation; and be it

RESOLVED FURTHER, that, to the extent that the Corporation serves as the sole member, managing member, general partner, partner or other governing body of any other corporation (a "Controlled Corporation"), each Responsible Officer of the Corporation, who may act without the joinder of any other Responsible Officer, be, and hereby is, authorized, empowered and directed in the name and on behalf of the Corporation (acting for such Controlled Corporation in the capacity set forth above, as applicable), to (i) authorize such Controlled Corporation to take any action that the Corporation is authorized to take hereunder and/or (ii) take any action on behalf of such Controlled Corporation that a Responsible Officer is herein authorized to take on behalf of the Corporation; and be it

RESOLVED FURTHER, that this these resolutions may be executed in multiple counterparts, each of which shall be considered an original and all of which shall constitute one and the same instrument.

3. Ratification of Past Acts.

RESOLVED, that all acts and deeds of any Responsible Officer or any other officer or attorney acting on behalf of the Corporation taken prior to the date hereof to carry out the intent and accomplish the purposes of the foregoing resolutions are hereby approved, adopted, ratified, and confirmed in all respects as the acts and deeds of the Corporation.

[Remainder of this page intentionally left blank]

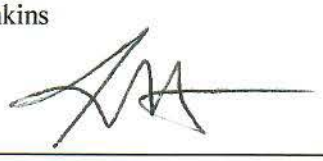
IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CANADA, LTD.**, have executed these resolutions as of the date first set forth above.

Bobby Jenkins

Gregory J. Porto

IN WITNESS WHEREOF, the undersigned, being all of the members of the board of directors of **SKILLSOFT CANADA, LTD.**, have executed these resolutions as of the date first set forth above.

Bobby Jenkins



Gregory J. Porto

Fill in this information to identify the case:

Debtor name: Skillsoft Canada, Ltd.

United States Bankruptcy Court for the District of Delaware (State)

Case number (*If known*): 20-_____ ( )

☐ Check if this is an amended filing

Official Form 204

Chapter 11 or Chapter 9 Cases: Consolidated List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders 12/15

A list of creditors holding the 30 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an insider, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 30 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	**Name, telephone number, and email address of creditor contact**	**Nature of the claim** (for example, trade debts, bank loans, professional services, and government contracts)	**Indicate if claim is contingent, unliquidated, or disputed**	**Amount of unsecured claim** If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	**Deduction for value of collateral or setoff**	**Unsecured claim**
1	Microsoft Licensing, GP Dept 842467 1950 N. Stemmons Fwy, Ste 5010 Dallas, TX 75207 United States of America	Attn: Ronnie Regencia Phone: +1-775-823-5600 Email: MSCREDIT@microsoft.com; v-rorege@microsoft.com	Trade Debt				$3,639,085
2	C Space 290 Congress St 7th Floor Boston, MA 02210 United States of America	Attn: Nichole Elias Phone: +1-617-316-4000 Email: nelias@cspace.com	Trade Debt				$1,018,241
3	ZK Technology LLC 201 Circle Drive North Suite 116 Piscataway, NJ 08854 United States of America	Attn: Luisa Martinez Phone: +1-732-412-6007 Email: luisa@zktechnology.com	Trade Debt				$643,650
4	Saltwater Collective LLC 40 Congress St 5th Floor Portsmouth, NH 03801 United States of America	Attn: Melissa Sherman Phone: +1-603-964-1100 Email: melissa@saltwaterco.com	Trade Debt				$576,750
5	LLW Consulting Inc 112 Park Street Fredericton, NB E3A 2J5 Canada	Attn: Wade Flowers Phone: +1-506-261-4998 Email: wade@llwinc.com	Trade Debt				$478,061
6	John Wiley & Sons, Inc. 111 River Street Hoboken, NJ 07030 United States of America	Attn: Kristin Kliemann Phone: +1-201-748-6000 Email: kbrooke@wiley.com; bfinnel@wiley.com; kkliemann@wiley.com; rightsrequests@wiley.com	Royalty				$465,622
7	Laragh Holdings Ltd Brownstown House Johnswell Road Kilkenny Ireland	Attn: Tom Oneil Phone: +353 56-781-6486 Email: tomo@laragh.com	Trade Debt				$415,777

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
8	NIIT (Ireland) Limited 6th Floor 2 Grand Canal Dublin 2 Ireland	Attn: Shivam Kumar Phone: +44 (0) 158-280-5920 Email: Shivam.Kumar@niit.com; Sanjay.Sisodia@niit.com	Trade Debt				$317,177
9	Imarc LLC 21 Water Street, #101 Amesbury, MA 01913 United States of America	Attn: Lauren Buzzell Phone: +1-978-462-8848 Email: laurenbuzzell@imarc.com	Trade Debt				$313,035
10	Presidio Networked Solutions, Inc. 10 Sixth Road Woburn, MA 01801 United States of America	Attn: Gina Kenney Phone: +1-781-638-2327 Email: gkenney@presidio.com	Trade Debt				$311,125
11	Lionbridge 3 West Pier Business Campus Dun Loaghaire Dublin, A96 A621 Ireland	Attn: Bronagh Doyle Phone: +353 1-2021200 Email: Bronagh.Doyle@lionbridge.com	Trade Debt				$254,585
12	EdutainmentLIVE LLC 7525 NW 4th Blvd Ste 10 Gainesville, FL 32607 United States of America	Attn: Peter Phone: +1-352-600-6906 Email: peter@itpro.tv	Royalty				$237,700
13	Loonycorn Quant Media Pvt Ltd A-1102, Mantri Espana Bellandur Bangalore, 560 103 India	Attn: Janani Ravi, Director Phone: Email: Janani.ravi@gmail.com	Trade Debt				$234,420
14	Pinnacle Technology Partners Inc 83 Morse Street Unit 6B Norwood, MA, 02062	Attn: Dan Lattuada Phone: +1-617-297-9670 Email: dlattuada@ptp.cloud	Trade Debt				$233,106
15	Aqueduct Technologies Inc 10 Post Office Square Boston, MA 02109 United States of America	Attn: Gretchen Turner Phone: +1-617-221-3570 Email: AR@aqueducttech.com	Trade Debt				$232,607
16	The Cresston Company 147 Old Solomons Island Rd Suite 302 Annapolis, MD 21401 United States of America	Attn: Shelly Denton Phone: +1-410-457-7279 Email: Shelly@compasslanguages.com	Trade Debt				$221,323
17	Jones Lang Lasalle Styne House Upper Hatch St Dublin 2 Ireland	Attn: Paula Nalty Phone: +353 1 673 1600 Email: paula.nalty@eu.jll.com	Trade Debt				$189,687
18	COMPRSA 43-47 Leadwood Crescent, Fairview Port Elizabeth South Africa	Attn: Johan Phone: +27 83-338-6418; +27 41-368-2299 Email: johan@comprsa.com	Trade Debt				$189,064

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-_____ ( )
Name

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
19	Forrester Research, Inc 25304 Network Place Chicago, IL 60673-1253 United States of America	Attn: A. Clapp Phone: +1-617-613-6030 Email: billing@forrester.com; aclapp@forrester.com	Trade Debt				$164,000
20	Robert Webster 100 Maple Street, Bldg B Stoneham, MA 02180 United States of America	Attn: Gail Pelosi Phone: +1-617-600-1292 Email: gpelosi@accutemp-eng.com; gdoherty@accutemp-eng.com	Trade Debt				$158,707
21	Infopro Learning Inc. 103 Morgan Lane Plainsboro, NJ 08536 United States of America	Attn: Ash Handa Phone: +1-609-606-9020 Email: ash.handa@infoprolearning.com	Trade Debt				$150,162
22	Recorded Books, Inc. 270 Skipjack Road Prince Frederick, MD 20678 United States of America	Attn: S. Bennett Phone: +1-800-638-1304 Email: btether@recordedbooks.com; sbennett@recordedbooks.com	Royalty				$141,606
23	Springer Science&Business Media (Apress) 233 Spring St New York, NY 10013 United States of America	Attn: Anthony Holmes Phone: +1-212-460-1500 Email: anthonyholmes@apress.com	Royalty				$137,982
24	Enterprise DB Corporation 34 Crosby Drive Suite 201 Bedford, MA 01730 United States of America	Attn: Aditya Raye Phone: +1-781-357-3390 Email: aditya.raje@enterprisedb.com	Trade Debt				$137,207
25	McGraw-Hill Education, Inc. 2 Penn Plaza, 9th Floor New York, NY 10121 United States of America	Attn: James Pascale Phone: +1-800-338-3987 Email: james.pascale@mheducation.com; colleen.martin@mheducation.com	Royalty				$122,811
26	Manpower Group Public Sector 29973 Network Place Chicago, IL, 60673-1299 United States of America	Attn: Fawn Whitney Phone: +1-703-928-4641; +1-703-245-9400 Email: fawn.whitney@experis.com	Trade Debt				$97,483
27	Bulletproof Solutions Inc 25 Alison Blvd Fredericton, NB E3C 2N5 Canada	Attn: Jennifer Wheaton Phone: +1-506-452-8558 Email: jwheaton@bulletproofsi.com	Trade Debt				$89,353
28	The Training Associates 11 Apex Drive Suite 202A Marlborough, MA 01752 United States of America	Attn: Laurie VancerVliet Phone: +1-800-241-8868 Email: LVanderVliet@TTACorp.com	Trade Debt				$86,300
29	LeanData Inc 1175 Sonora Court Sunnyvale, CA 94086 United States of America	Attn: Larry Cheng Phone: +1-669-600-5676 Email: ar@leandatainc.com	Trade Debt				$85,000

Debtor Skillsoft Canada, Ltd. Case number (if known) 20-_____ ( )
Name

Name of creditor and complete mailing address, including zip code		Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
30	Racepoint Global, Inc. Attn: Lauren Williams 53 State St Floor 4 Boston, MA, 02109	Attn: Lauren Williams Phone: +1-617-624-4117 Email: pchadwick@racepointglobal.com	Trade Debt				$84,727

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CANADA, LTD.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

CONSOLIDATED CORPORATE OWNERSHIP STATEMENT PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 1007 AND 7007.1

Pursuant to Rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, attached hereto as **Exhibit A** is an organizational chart reflecting all of the ownership interests in Skillsoft Corporation ("**Skillsoft**") and its affiliated debtors (the "**Affiliated Debtors**"), as proposed debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"). Skillsoft, on behalf of itself and the Affiliated Debtors, respectfully represents as follows:

1. Charterhouse Evergreen LP (managed and controlled by its general partner Charterhouse General Partners (IX) Limited) owns 81.84 percent (81.84%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. VEP Aggregator LLC owns 11.78 percent (11.78%) of the equity interests of Evergreen Skills Top Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of Evergreen Skills Top Holding Lux S.à r.l.'s common stock.
2. Evergreen Skills Top Holding Lux S.à r.l. owns 85.33 percent (85.33%) of the equity interests of Evergreen Skills Holding Lux S.à r.l. To the best of the Debtors' knowledge and belief, no other person or entity directly owns ten percent (10%) or more of

Evergreen Skills Holding Lux S.à r.l.'s common stock.

3. Evergreen Skills Holding Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Intermediate Lux S.à r.l.
4. Evergreen Skills Intermediate Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Evergreen Skills Lux S.à r.l.
5. Evergreen Skills Lux S.à r.l. owns one hundred percent (100%) of the equity interests of Pointwell Limited.
6. Pointwell Limited owns one hundred percent (100%) of the equity interests of SSI Investments I Limited.
7. SSI Investments I Limited owns one hundred percent (100%) of the equity interests of SSI Investments II Limited.
8. SSI Investments II Limited owns one hundred percent (100%) of the equity interests of SSI Investments III Limited.
9. SSI Investments III Limited owns one hundred percent (100%) of the equity interests of Skillsoft Limited.
10. Skillsoft Limited owns one hundred percent (100%) of the equity interests of:
    a. Skillsoft U.K. Limited;
    b. Skillsoft; and
    c. Skillsoft Ireland Limited.
11. Skillsoft Limited owns fifty-four and one-half percent (54.5%) of the equity interests of Skillsoft Canada, Ltd.
12. Skillsoft owns forty-five and one-half percent (45.5%) of the equity interests of Skillsoft Canada, Ltd.
13. Skillsoft owns one hundred percent (100%) of the equity interests of Amber Holding

Inc.

14. Amber Holding Inc. is the sole member of SumTotal Systems LLC.

15. SumTotal Systems LLC owns one hundred percent (100%) of the equity interests of:

    a. Accero, Inc.; and

    b. Cybershift Holdings, Inc.

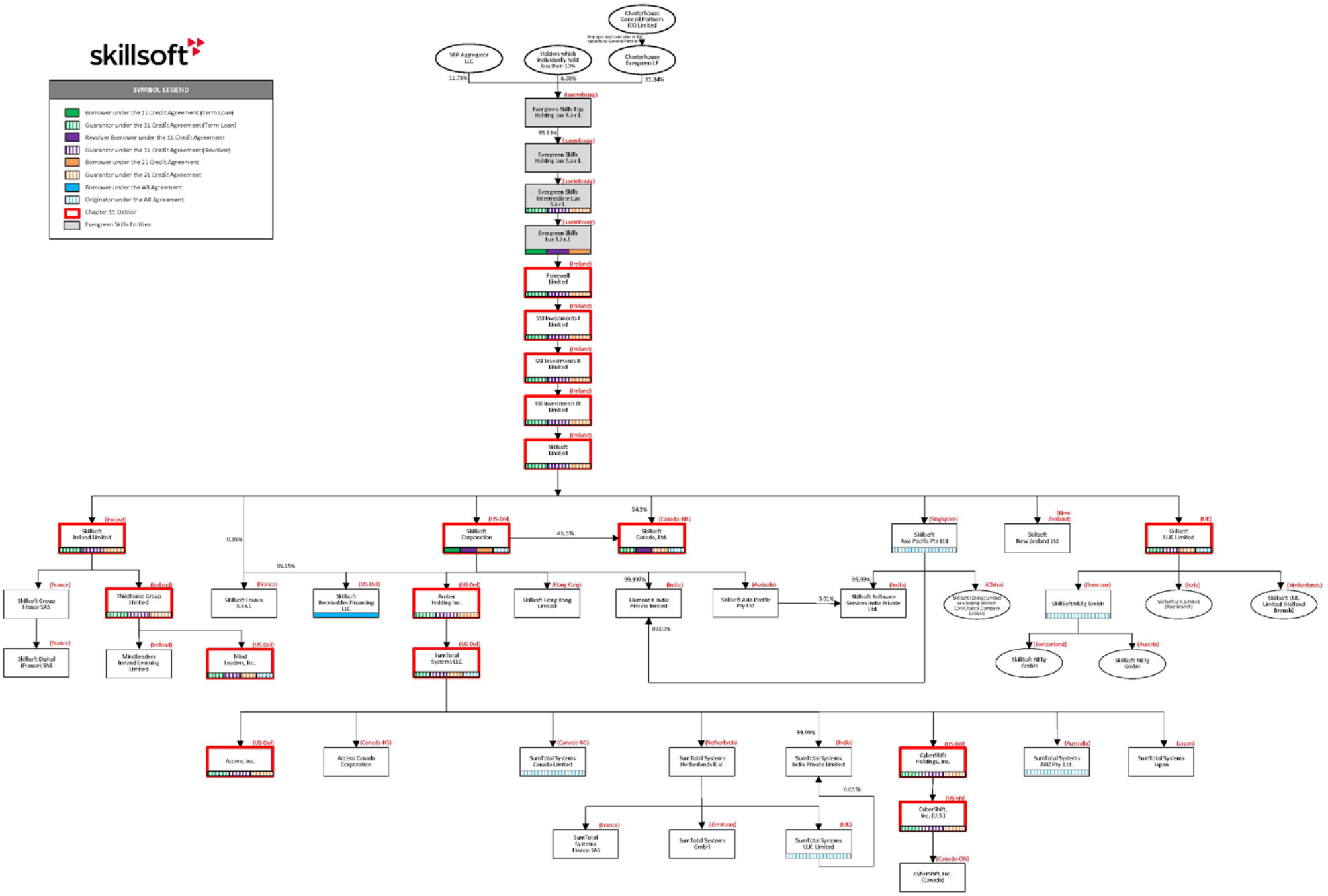
16. CyberShift Holdings, Inc. owns one hundred percent (100%) of the equity interests of CyberShift, Inc.

17. Skillsoft Ireland Limited owns one hundred percent (100%) of the equity interests of ThirdForce Group Limited.

18. ThirdForce Group Limited owns one hundred percent (100%) of the equity interests of MindLeaders, Inc.

Exhibit A

Organizational Chart


skillsoft
SYMBOL LEGEND
Borrower under the 1 L Credit Agreement (Term Loan)
Guarantor under the 1L Credit Agreement (Term Loan)
Revolver Borrower under the 1L Credit Agreement
Guarantor under the 1L Credit Agreement (Revolver)
Borrower under the 2 L Credit Agreement
Guarantor under the 2L Credit Agreement
Borrower under the AR Agreement
Originator under the AR Agreement
Chapter 11 Debtor
Evergreen Skills Entities
Charterhouse General Partners (IX) Limited
VRP Aggregator LLC
Holders which individually hold less than 10%
Charterhouse Evergreen LP
11.78%
6.38%
81.84%
Evergreen Skills Top Holding Lux S.à r.l.
95.33%
Evergreen Skills Holding Lux S.à r.l.
Evergreen Skills Intermediate Lux S.à r.l.
Evergreen Skills Lux S.à r.l.
Pointwell Limited
SSI Investments I Limited
SSI Investments II Limited
SSI Investments III Limited
Skillsoft Limited
Skillsoft Ireland Limited
0.85%
99.15%
Skillsoft Corporation
45.5%
54.5%
Skillsoft Canada, Ltd.
Skillsoft Asia Pacific Pte Ltd
Skillsoft New Zealand Ltd
Skillsoft U.K. Limited
Skillsoft Group France SAS
ThirdForce Group Limited
Skillsoft France S.à r.l.
Skillsoft Receivables Financing LLC
Amber Holding Inc.
Skillsoft Hong Kong Limited
99.997%
Element K India Private limited
Skillsoft Asia Pacific Pty Ltd
0.01%
99.99%
Skillsoft Software Services India Private Ltd.
Skillsoft (China) Limited
SkillSoft NETg GmbH
Skillsoft U.K. Limited (Italy Branch)
Skillsoft U.K. Limited (Holland Branch)
Skillsoft Digital (France) SAS
MindLeaders Ireland Learning Limited
Mind Leaders, Inc.
SumTotal Systems LLC
0.003%
SkillSoft NETg GmbH
SkillSoft NETg GmbH
Accero, Inc.
Accero Canada Corporation
SumTotal Systems Canada Limited
SumTotal Systems Netherlands B.V.
SumTotal Systems India Private Limited
99.99%
0.01%
CyberShift Holdings, Inc.
SumTotal Systems ANZ Pty. Ltd.
SumTotal Systems Japan
CyberShift, Inc. (U.S.)
CyberShift, Inc. (Canada)
SumTotal Systems France SAS
SumTotal Systems GmbH
SumTotal Systems U.K. Limited

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CANADA, LTD.,	:	**Case No. 20– _____ ( )**
	:	
Debtor.	:	
	:	

LIST OF EQUITY HOLDERS[1]

Pursuant to Rule 1007(a)(3) of the Federal Rules of Bankruptcy Procedure, the following identifies all holders having a direct or indirect ownership interest, of the above-captioned debtor in possession (the "**Debtor**").

Check applicable box:

☐ There are no equity security holders or corporations that directly or indirectly own 10% or more of any class of the Debtor's equity interest.

☒ The following are the Debtor's equity security holders (list holders of each class, showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder):

Name and Last Known Address or Place of Business of Holder	Kind/Class of Interest	Number of Interests Held
Skillsoft Limited Block 4, Belfield Office Park Clonskeagh Dublin 4, D04 V972 Ireland	Equity Interest	54.5%
Skillsoft Corporation 300 Innovative Way, Suite 201 Nashua, New Hampshire 03062	Equity Interest	45.5%

[1] This list serves as the required disclosure by the Debtor pursuant to Rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the Debtor's chapter 11 case.

Fill in this information to identify the case:

Debtor name: Skillsoft Canada, Ltd.

United States Bankruptcy Court for the District of Delaware
(State)

Case number (*If known*): 20-_____ ( )

Official Form 202

Declaration Under Penalty of Perjury for Non-Individual Debtors 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ Schedule A/B: Assets–Real and Personal Property (Official Form 206A/B)
- ☐ Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)
- ☐ Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)
- ☐ Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)
- ☐ Schedule H: Codebtors (Official Form 206H)
- ☐ Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)
- ☐ Amended Schedule ____
- ☑ Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 30 Largest Unsecured Claims and Are Not Insiders (Official Form 204)
- ☑ Other document that requires a declaration Consolidated Corporate Ownership Statement and List of Equity Holders

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2020
MM /DD /YYYY

X /s/ John Frederick
Signature of individual signing on behalf of debtor

John Frederick
Printed name

Authorized Signatory
Position or relationship to debtor

TAB Q

Motion of Debtors for Entry of Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief

Docket #0002 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 02-0496115	:	

In re:	:	**Chapter 11**
AMBER HOLDING INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 26-4590335	:	

In re:	:	**Chapter 11**
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 42-1607228	:	

In re:	:	**Chapter 11**
MINDLEADERS, INC.,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. 98-0536072	:	

2011532200614000000000018

In re:	:	**Chapter 11**
ACCERO, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 26-1744684	:	
In re:	:	**Chapter 11**
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 22-3482109	:	
In re:	:	**Chapter 11**
CYBERSHIFT, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 11-2530586	:	
In re:	:	**Chapter 11**
POINTWELL LIMITED,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SSI INVESTMENTS I LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SSI INVESTMENTS II LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SSI INVESTMENTS III LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
THIRDFORCE GROUP LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SKILLSOFT U.K. LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT CANADA, LTD.,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

MOTION OF DEBTORS FOR ENTRY OF ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors request entry of an order (i) directing joint administration of their chapter 11 cases for procedural purposes only and (ii) granting related relief.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Local Rule 9013–1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. On the date hereof, the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[1] filed contemporaneously herewith and incorporated herein by reference.

[1] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

6. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

7. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

8. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Relief Requested Should Be Granted

9. Bankruptcy Rule 1015(b) provides, in relevant part, that "[i]f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates." Fed. R. Bankr. P. 1015(b). The Debtors are all

"affiliates" as that term is defined in section 101(2) of the Bankruptcy Code. Accordingly, the Court is authorized to grant the relief requested herein.

10. In addition, Local Rule 1015-1 provides, in relevant part, as follows:

> An order of joint administration may be entered, without notice and an opportunity for hearing, upon the filing of a motion for joint administration . . . supported by an affidavit, declaration or verification, which establishes that the joint administration of two or more cases pending in this Court under title 11 is warranted and will ease the administrative burden for the Court and the parties.

Del. Bankr. L.R. 1015-1.

11. Pursuant to Local Rule 1015-1, the Debtors have filed the First Day Declaration contemporaneously herewith. As set forth in the First Day Declaration, joint administration of the Debtors' chapter 11 cases will save the Debtors and their estates substantial time and expense because it will remove the need to prepare, replicate, file, and serve duplicative notices, applications, and orders. Further, joint administration will relieve the Court of entering duplicative orders and maintaining duplicative files and dockets. The United States Trustee for the District of Delaware (the "**U.S. Trustee**") and other parties in interest will similarly benefit from joint administration of these chapter 11 cases, as it will spare them the time and effort of reviewing duplicative pleadings and papers.

12. Joint administration will not adversely affect creditors' rights because this Motion requests only the administrative consolidation, and not the substantive consolidation, of the Debtors' estates. As such, each creditor will continue to hold its claim against a particular Debtor's estate after this Motion is approved. Accordingly, the Debtors respectfully request that the Court modify the captions of these chapter 11 cases to reflect joint administration as follows:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20 - _____ (__)**
Debtors.[1]	:	**(Jointly Administered)**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

13. The Debtors also seek the Court's direction that a notation substantially similar to the following be entered on the docket in each of the above-captioned cases, other than Skillsoft Corporation, to reflect the joint administration of these cases:

> An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc.; Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The docket in Skillsoft Corporation, Case No. 20-_____ (__) should be consulted for all matters affecting this case.

14. Based on the foregoing, the relief requested herein is necessary and appropriate, is in the best interests of the Debtors' estates and creditors, and should be granted in all respects.

Notice

15. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

RICHARDS, LAYTON & FINGER, P.A.
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- and -

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Facsimile: (212) 310-8007

Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 02-0496115	:	
In re:	:	**Chapter 11**
AMBER HOLDING INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 26-4590335	:	
In re:	:	**Chapter 11**
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 42-1607228	:	
In re:	:	**Chapter 11**
MINDLEADERS, INC.,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. 98-0536072	:	

In re:	:	**Chapter 11**
ACCERO, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 26-1744684	:	
In re:	:	**Chapter 11**
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 22-3482109	:	
In re:	:	**Chapter 11**
CYBERSHIFT, INC.,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. 11-2530586	:	
In re:	:	**Chapter 11**
POINTWELL LIMITED,	:	**Case No. 20– _____ (__)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SSI INVESTMENTS I LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SSI INVESTMENTS II LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SSI INVESTMENTS III LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
THIRDFORCE GROUP LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SKILLSOFT U.K. LIMITED,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT CANADA, LTD.,	:	**Case No. 20– _____ ( )**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[1] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), for an entry of an order (i) directing joint administration of their chapter 11 cases for procedural purposes only, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant

[1] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 20-_____ ( ).

3. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective estates.

4. The caption of the jointly administered cases shall read as follows:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ (__)**
Debtors.[1]	:	**(Jointly Administered)**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

5. A docket entry shall be made in each of the above-captioned cases substantially as follows:

> An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc.; Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The docket in Skillsoft Corporation, Case No. 20-_____ (_____) should be consulted for all matters affecting this case.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB R

Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief

Docket #0073 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION,	:	**Case No. 20–11532 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 02-0496115	:	

In re:	:	**Chapter 11**
AMBER HOLDING INC.,	:	**Case No. 20–11534 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 26-4590335	:	

In re:	:	**Chapter 11**
SUMTOTAL SYSTEMS LLC,	:	**Case No. 20–11533 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 42-1607228	:	

In re:	:	**Chapter 11**
MINDLEADERS, INC.,	:	**Case No. 20–11535 (MFW)**
Debtor.	:	
Fed. Tax Id. No. 98-0536072	:	

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In re:	:	**Chapter 11**
	:	
ACCERO, INC.,	:	**Case No. 20–11536 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 26-1744684	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT HOLDINGS, INC.,	:	**Case No. 20–11538 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 22-3482109	:	
In re:	:	**Chapter 11**
	:	
CYBERSHIFT, INC.,	:	**Case No. 20–11537 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. 11-2530586	:	
In re:	:	**Chapter 11**
	:	
POINTWELL LIMITED,	:	**Case No. 20–11540 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS I LIMITED,	:	**Case No. 20–11539 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS II LIMITED,	:	**Case No. 20–11541 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SSI INVESTMENTS III LIMITED,	:	**Case No. 20–11542 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT LIMITED,	:	**Case No. 20–11543 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
SKILLSOFT IRELAND LIMITED,	:	**Case No. 20–11544 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
	:	
THIRDFORCE GROUP LIMITED,	:	**Case No. 20–11545 (MFW)**
	:	
Debtor.	:	
	:	
Fed. Tax Id. No. N/A	:	

In re:	:	**Chapter 11**
SKILLSOFT U.K. LIMITED,	:	**Case No. 20–11546 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	
In re:	:	**Chapter 11**
SKILLSOFT CANADA, LTD.,	:	**Case No. 20–11547 (MFW)**
Debtor.	:	
Fed. Tax Id. No. N/A	:	

ORDER (I) DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[1] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 1015-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), for an entry of an order (i) directing joint administration of their chapter 11 cases for procedural purposes only, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant

[1] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 20-11532 (MFW).

3. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective estates.

4. The caption of the jointly administered cases shall read as follows:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

5. A docket entry shall be made in each of the above-captioned cases substantially as follows:

> An order has been entered in this case directing the procedural consolidation and joint administration of the chapter 11 cases of Skillsoft Corporation; Amber Holding Inc.; SumTotal Systems LLC; MindLeaders, Inc.; Accero, Inc.; CyberShift Holdings, Inc.; CyberShift, Inc. (U.S.); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The docket in Skillsoft Corporation, Case No. 20-11532 (MFW) should be consulted for all matters affecting this case.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB S

Application of Debtors Pursuant to 28 U.S.C. § 156(c) for Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date

Docket #0012 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

APPLICATION OF DEBTORS PURSUANT TO 28 U.S.C. § 156(C) FOR APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT *NUNC PRO TUNC* TO THE PETITION DATE

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this application (the "**Application**"):

Relief Requested

1. By this Application, pursuant to section 156(c) of title 28 of the United States Code, section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), and Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors request entry of an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

2011532200614000000000029

("**Claims and Noticing Agent**") in the Debtors' chapter 11 cases, which will include, among other things, KCC taking full responsibility for the distribution of notices and the maintenance, processing, and docketing of proofs of claim, if any, filed in the Debtors' chapter 11 cases.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

3. The Debtors' selection of KCC to act as their Claims and Noticing Agent satisfies the Court's Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c) (the "**Claims Agent Protocol**"). The Debtors have obtained and reviewed engagement proposals from at least two (2) other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals that they and their advisors have obtained and reviewed, that KCC's rates are competitive and reasonable given KCC's quality of services and expertise. The terms of KCC's retention are set forth in the Engagement Agreement annexed hereto as **Exhibit C** (the "**Engagement Agreement**"); provided that the Debtors are seeking approval solely of the terms and provisions as set forth in this Application and the Proposed Order.

4. The Debtors anticipate that there will be in excess of 10,000 entities to be noticed during and in connection with their chapter 11 cases. Local Rule 2002-1(f) provides that "[i]n all cases with more than 200 creditors or parties in interest listed on the creditor matrix, unless the Court orders otherwise, the debtor shall file [a motion to authorize the retention of a noticing and/or claims clerk] on the first day of the case or within seven (7) days thereafter. The notice and/or claims clerk shall comply with the [Claims Agent Protocol]." In view of the number of anticipated notice parties and the complexity of the Debtors' chapter 11 cases, the Debtors submit

that the appointment of a Claims and Noticing Agent is required by Local Rule 2002-1(f) and is otherwise in the best interests of both the Debtors' estates and their creditors.

5. Because the administration of the Debtors' chapter 11 cases will require KCC to perform duties outside the scope of 28 U.S.C. § 156(c), the Debtors are seeking, by separate application filed contemporaneously herewith, authorization to retain and employ KCC as administrative advisor pursuant to section 327(a) of the Bankruptcy Code.

6. In support of this Application, the Debtors submit the Declaration of Robert Jordan, Managing Director of KCC (the "**Jordan Declaration**"), annexed hereto as **Exhibit B**.

Jurisdiction

7. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Local Rule 9013-1(f) of the Local Rules, the Debtors consent to the entry of a final order by the Court in connection with this Application to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

8. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

9. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

10. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

11. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

12. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the

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[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

13. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the

Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Application, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

KCC's Qualifications

14. KCC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting and facilitating other administrative aspects of chapter 11 cases of the size and complexity of these cases. KCC's professionals have acted as debtor's counsel or official claims and noticing agent in many large bankruptcy cases in this District and in other districts nationwide. *See, e.g., In re Art Van Furniture, LLC, et al.,*, Case No. 20-10553 (CSS) (Bankr. D. Del. Mar. 8, 2020); *In re Valeritas Holdings, Inc., et al.*, Case No. 20-10290 (LSS) (Bankr. D. Del. Feb. 9, 2020); *In re Melinta Therapeutics, Inc., et al.*, Case No. 19-12748 (LSS) (Bankr. D. Del. Dec. 27, 2019); *In re Celadon Group, Inc.*, Case No. 19-12606 (KO) (Bankr. D. Del. Dec. 8, 2019); *In re HRI Holding Corp.*, Case No. 19-12415 (MW) (Bankr. D. Del. Nov. 14, 2019); *In re Highland Capital Management, L.P.*, Case No. 19-12239 (CSS) (Bankr. D. Del. Oct. 16, 2019); *In re Bayou Steel BD Holdings, L.L.C.*, Case No. 19-12153 (KBO) (Bankr. D. Del. Oct. 1, 2019); *In re Pancakes & Pikes, LLC, et al. (f/k/a Perkins & Marie Callender's, LLC), et al.*, Case No. 19-11743 (KG) (Bankr. D. Del. Aug. 5, 2019); *In re Emerge Energy Services LP, et al.*, Case No. 19-11563 (KBO) (Bankr. D. Del. Jul. 15, 2019); *In re Fuse, LLC, et al.*, Case No. 19-10872 (KG) (Bankr. D. Del. Apr. 22, 2019); *In re Achaogen, Inc.*, Case No. 19-10844 (BLS) (Bankr. D. Del. Apr. 15, 2019);

In re Southcross Energy Partners, L.P., Case No. 19-10702 (MW) (Bankr. D. Del. Apr. 1, 2019); *In re Novum Pharma, LLC*, Case No. 19-10209 (KJC) (Bankr. D. Del. Feb. 3, 2019); *In re Egalet Corp.*, Case No. 18-12439 (BLS) (Bankr. D. Del. Nov. 1, 2018).

15. By appointing KCC as Claims and Noticing Agent in these chapter 11 cases, the distribution of notices and the processing of claims will be handled efficiently and expeditiously. Further, KCC's appointment would relieve the Office of the Clerk of the Bankruptcy Court (the "**Clerk**") of the administrative burden of processing what may be an overwhelming number of claims.

Services to be Provided

16. This Application pertains only to the work to be performed by KCC under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and Local Rule 2002-1(f). Any work to be performed by KCC outside of this scope is not covered by this Application or by any order granting approval hereof. Specifically, KCC will perform the following tasks in its role as Claims and Noticing Agent in these chapter 11 cases (collectively, the "**Claims and Noticing Services**"), as well as all quality control relating thereto:

(a) Prepare and serve required notices and documents in these chapter 11 cases in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of these chapter 11 cases and, if required, the initial meeting of creditors under section 341(a) of the Bankruptcy Code; (ii) notice of any claims bar date; (iii) notices of transfers of claims; (iv) notices of objections to claims and objections to transfers of claims; (v) notices of any hearings on a disclosure statement and confirmation of the Debtors' plan or plans of reorganization, including under Bankruptcy Rule 3017(d); (vi) notice of the effective date of any plan; and (vii) all other notices, orders, pleadings, publications, and other documents as the Debtors or the Court may deem necessary or appropriate for an orderly administration of these chapter 11 cases;

(b) Maintain an official copy of the Debtors' schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules**"), listing the Debtors' known creditors and the amounts owed thereto;

(c) Maintain (i) a list of all potential creditors, equity holders and other parties in interest and (ii) a "core" service mailing list consisting of all parties described in Bankruptcy Rule 2002(i), (j), and (k), and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; and update and make such lists available upon request by a party-in-interest or the Clerk;

(d) Furnish a notice to all potential creditors of the last date for filing proofs of claim and a form for filing a proof of claim, after such notice and form are approved by the Court, and notify potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, if any, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;

(e) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;

(f) For *all* notices, motions, orders, or other pleadings or documents served, prepare and file, or cause to be filed, with the Clerk an affidavit or certificate of service within seven (7) business days of service that includes (i) either a copy of the notice served or the docket number(s) and title(s) of the pleading(s) served; (ii) a list of persons to whom it was served (in alphabetical order) with their addresses as appropriate; (iii) the manner of service; and (iv) the date served;

(g) Process all proofs of claim received, including those received by the Clerk, check processing for accuracy, and maintain the original proofs of claim in a secure area;

(h) Provide an electronic interface for filing proofs of claim;

(i) Maintain the official claims register for each Debtor (collectively, the "**Claims Registers**") on behalf of the Clerk; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned; (ii) the date received; (iii) the name and address of the claimant and agent; if applicable, who filed the claim; (iv) the amount asserted; (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc*.); (vi) the applicable Debtor; and (vii) any disposition of the claim;

(j) Provide public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge;

(k) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;

(l) Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);

(m) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;

(n) Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the Claims Registers for the Clerk's review (upon the Clerk's request);

(o) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Register and any service or mailing lists, including to identify and eliminate duplicative names and addresses from such lists;

(p) Identify and correct any incomplete or incorrect addresses in any mailing or service lists;

(q) Assist in the dissemination of information to the public and respond to requests for administrative information regarding these chapter 11 cases as directed by the Debtors or the Court, including through the use of a case website and/or call center;

(r) If these chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code, contact the Clerk's office within three (3) days of notice to KCC of entry of the order converting the cases;

(s) Thirty (30) days prior to the close of these chapter 11 cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing KCC as Claims and Noticing Agent and terminating its services in such capacity upon completion of its duties and responsibilities and upon the closing of these chapter 11 cases;

(t) Within seven (7) days of notice to KCC of entry of an order closing these chapter 11 cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of the chapter 11 cases; and

(u) At the close of these chapter 11 cases, (i) box and transport all original documents, in proper format, as provided by the Clerk's office, to (A) the Philadelphia Federal Records Center, 14700 Townsend Road, Philadelphia, PA 19154-1096 or (B) any other location requested by the Clerk's office; and (ii) docket a completed SF-135 Form indicating the accession and location numbers of the archived claims.

17. The Claims Registers shall be open to the public for examination without charge during regular business hours and on a case-specific website maintained by KCC.

KCC's Compensation

18. The Debtors request that the undisputed fees and expenses incurred by KCC in the performance of the Claims and Noticing Services be treated as administrative expenses of the Debtors' chapter 11 estates pursuant to 28 U.S.C. § 156(c) and section 503(b)(1)(A) of the Bankruptcy Code and be paid in the ordinary course of business without further application to or order of the Court. KCC agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and to serve monthly invoices on the Debtors, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties will meet and confer in an attempt to resolve the dispute. In the event the parties are unable to reach a resolution, they may seek resolution of the matter from the Court.

19. Prior to the Petition Date, the Debtors provided KCC a retainer in the amount of $60,000 (the "**Retainer**"). KCC seeks to first apply the retainer to all prepetition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Engagement Agreement during these chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

20. Additionally, under the terms of the Engagement Agreement, the Debtors have agreed to indemnify and hold harmless KCC and its members, directors, officers, employees, consultants, subcontractors and agents to the fullest extent permitted by applicable law, as outlined

in the Engagement Agreement. Such indemnification excludes circumstances resulting from, arising out of, or related to KCC's gross negligence or willful misconduct or as otherwise provided in the Engagement Agreement or Proposed Order. The Debtors believe that such an indemnification obligation is customary, reasonable, and necessary to retain the services of a Claims and Noticing Agent in these chapter 11 cases.

Disinterestedness

21. Although the Debtors do not propose to employ KCC under section 327 of the Bankruptcy Code pursuant to this Application (such retention will be sought by separate application), KCC has nonetheless reviewed its electronic database to determine whether it has any relationships with the creditors and parties in interest identified by the Debtors and the Debtors have been advised that, to the best of KCC's knowledge, information, and belief, and except as disclosed in the Jordan Declaration, KCC has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed.

22. Moreover, in connection with its retention as Claims and Noticing Agent, KCC represents in the Jordan Declaration, among other things, the following:

(a) KCC is not a creditor of the Debtors;

(b) KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in these chapter 11 cases;

(c) By accepting employment in these chapter 11 cases, KCC waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;

(d) In its capacity as the Claims and Noticing Agent in these chapter 11 cases, KCC will not be an agent of the United States and will not act on behalf of the United States;

(e) KCC will not employ any past or present employees of the Debtors in connection with its work as the Claims and Noticing Agent in these chapter 11 cases;

(f) KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;

(g) In its capacity as Claims and Noticing Agent in these chapter 11 cases, KCC will not intentionally misrepresent any fact to any person;

(h) KCC shall be under the supervision and control of the Clerk's office with respect to the receipt and recordation of claims and claim transfers;

(i) KCC will comply with all requests of the Clerk's office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and

(j) None of the services provided by KCC as Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk's office.

KCC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

Compliance with Claims and Noticing Agent Protocol

23. This Application complies with the Claims Agent Protocol and substantially conforms to the standard application pursuant to 28 U.S.C. § 156(c) regularly filed with and granted by this Court. To the extent that there is any inconsistency among this Application, the Proposed Order and the Engagement Agreement, the Proposed Order shall govern in all respects.

Basis for Relief Requested

24. Section 156(c) of title 28 of the United States Code, which governs the staffing and expenses of the bankruptcy court, authorizes the Court to use facilities other than those of the Clerk for the administration of chapter 11 cases, and provides as follows:

> Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the

> costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States.

28 U.S.C. § 156(c).

25. By appointing KCC as the Claims and Noticing Agent in these chapter 11 cases, the distribution of notices and the processing of claims will be expedited and the Clerk's office will be relieved of the administrative burden of processing any such claims.

26. The Debtors submit, based on all engagement proposals obtained and reviewed, that KCC's rates are competitive and reasonable given KCC's quality of services and expertise.

27. Based on the foregoing, this Section 156(c) Application conforms to the standard application in use by this Court.

28. Pursuant to the Debtors' request, KCC has served in the capacity as Claims and Noticing Agent since the Petition Date with assurances that the Debtors would seek approval of KCC's employment and retention, *nunc pro tunc* to the Petition Date, so that KCC may be compensated for services prior to entry of an order approving KCC's retention. No party-in-interest will be prejudiced by the granting of the *nunc pro tunc* employment, as provided herein, because KCC has provided and continues to provide valuable services to the Debtors' estates in the interim period. Courts in this jurisdiction have routinely approved *nunc pro tunc* employment similar to that requested herein in matters comparable to this matter.

29. Based on the foregoing, the Debtors have satisfied the requirements of 28 U.S.C. § 156(c) and the Local Rules. Accordingly, the Debtors respectfully request the entry of an order pursuant to 28 U.S.C. § 156(c) and Local Rule 2002–1(f) authorizing the Debtors to retain and employ KCC as the Claims and Noticing Agent, *nunc pro tunc* to the Petition Date.

30. The Debtors believe the retention of KCC is in the best interests of the Debtors, the Debtors' estates, and all parties in interest.

31. The Debtors' knowledge, information and belief regarding the matters set forth in this Section 156(c) Application are based on and made in reliance upon the Jordan Declaration.

Notice

32. Notice of this Application will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Application

is seeking "first day" relief, the Debtors will serve copies of this Application and any order entered in respect of the Application as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[remainder of page intentionally left blank]

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ *John Frederick*

John Frederick
Authorized Officer

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT *NUNC PRO TUNC* TO THE PETITION DATE

Upon the application (the "**Application**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 156(c) of title 28 of the United States Code, section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), requesting entry of an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent ("**Claims and Noticing Agent**") in the Debtors' chapter 11 cases, which will include KCC assuming full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim, if any,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

filed in the Debtors' chapter 11 cases, all as more fully set forth in the Application; and upon the Jordan Declaration, filed contemporaneously with and attached to the Application as Exhibit B; and the Debtors having estimated that there are in excess of 10,000 notice parties in these chapter 11 cases; and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Application, the record of the Hearing and all of the proceedings had before the Court is in the best interests of the Debtors, their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Application

establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Debtors are authorized to retain KCC as Claims and Noticing Agent effective *nunc pro tunc* to the Petition Date under the terms of the Engagement Agreement.

2. KCC is authorized and directed to perform noticing services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (collectively, the "**Claims and Noticing Services**").

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtors are authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate

documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee for the District of Delaware, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Engagement Agreement or monthly invoices; provided that the parties may seek resolution of the matter from the Court if resolution is not achieved.

8. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates.

9. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

10. The Debtors shall indemnify KCC under the terms of the Engagement Agreement, as modified pursuant to this Order.

11. KCC shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court.

12. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Order.

13. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution or reimbursement.

14. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and the Debtors' attorney and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' attorney.

15. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

16. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

17. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

18. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

19. KCC shall not cease providing claims processing services during the chapter 11 cases for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

21. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Jordan Declaration

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	

DECLARATION OF ROBERT JORDAN IN SUPPORT OF THE APPLICATION OF THE DEBTORS PURSUANT TO 28 U.S.C. § 156(C) FOR APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT NUNC PRO TUNC TO THE PETITION DATE

I, Robert Jordan, under penalty of perjury, declare as follows:

1. I am a Senior Managing Director of Kurtzman Carson Consultants LLC ("**KCC**"), a chapter 11 administrative services firm with offices located at 1290 Avenue of the Americas, 9th Floor New York, New York 10104. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. This Declaration is made in support of the above-captioned *Application of the Debtors Pursuant to 28 U.S.C. § 156(c) for Appointment of Kurtzman Carson Consultants LLC*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date, filed contemporaneously herewith (the "**Application**").[2]

3. KCC is comprised of leading industry professionals with significant experience in both the legal and administrative aspects of large, complex chapter 11 cases. KCC's professionals have experience in noticing, claims administration, solicitation, balloting and facilitating other administrative aspects of chapter 11 cases and experience in matters of the size and complexity of the Debtors' chapter 11 cases. KCC's professionals have acted as debtor's counsel or official claims and noticing agent in many large bankruptcy cases in this District and in other districts nationwide. *See, e.g.*, *In re Art Van Furniture, LLC, et al.*,, Case No. 20-10553 (CSS) (Bankr. D. Del. Mar. 8, 2020); *In re Valeritas Holdings, Inc., et al.*, Case No. 20-10290 (LSS) (Bankr. D. Del. Feb. 9, 2020); *In re Melinta Therapeutics, Inc., et al.*, Case No. 19-12748 (LSS) (Bankr. D. Del. Dec. 27, 2019);; *In re Celadon Group, Inc.*, Case No. 19-12606 (KO) (Bankr. D. Del. Dec. 8, 2019); *In re HRI Holding Corp.*, Case No. 19-12415 (MW) (Bankr. D. Del. Nov. 14, 2019); *In re Highland Capital Management, L.P.*, Case No. 19-12239 (CSS) (Bankr. D. Del. Oct. 16, 2019); *In re Bayou Steel BD Holdings, L.L.C.*, Case No. 19-12153 (KBO) (Bankr. D. Del. Oct. 1, 2019); *In re Pancakes & Pikes, LLC, et al. (f/k/a Perkins & Marie Callender's, LLC), et al.*, Case No. 19-11743 (KG) (Bankr. D. Del. Aug. 5, 2019); *In re Emerge Energy Services LP, et al.*, Case No. 19-11563 (KBO) (Bankr. D. Del. Jul. 15, 2019); *In re Fuse, LLC, et al.*, Case No. 19-10872 (KG) (Bankr. D. Del. Apr. 22, 2019); *In re Achaogen, Inc.*, Case No. 19-10844 (BLS) (Bankr. D. Del. Apr. 15, 2019); *In re Southcross Energy Partners, L.P.*, Case No. 19-10702

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Application.

(MW) (Bankr. D. Del. Apr. 1, 2019); *In re Novum Pharma, LLC*, Case No. 19-10209 (KJC) (Bankr. D. Del. Feb. 3, 2019); *In re Egalet Corp.*, Case No. 18-12439 (BLS) (Bankr. D. Del. Nov. 1, 2018).

4. As agent and custodian of Court records pursuant to 28 U.S.C. § 156(c), KCC will perform, at the request of the Office of the Clerk of the Bankruptcy Court (the "**Clerk**"), the services specified in the Application and the Engagement Agreement, and, at the Debtors' request, any related administrative, technical and support services as specified in the Application and the Engagement Agreement. In performing such services, KCC will charge the Debtors the rates set forth in the Engagement Agreement, which is attached as Exhibit C to the Application.

5. KCC represents, among other things, the following:

(a) KCC is not a creditor of the Debtors;

(b) KCC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the Claims and Noticing Agent in these chapter 11 cases;

(c) By accepting employment in these chapter 11 cases, KCC waives any rights to receive compensation from the United States government in connection with these chapter 11 cases;

(d) In its capacity as the Claims and Noticing Agent in these chapter 11 cases, KCC will not be an agent of the United States and will not act on behalf of the United States;

(e) KCC will not employ any past or present employees of the Debtors in connection with its work as the Claims and Noticing Agent in these chapter 11 cases;

(f) KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is engaged;

(g) In its capacity as Claims and Noticing Agent in these chapter 11 cases, KCC will not intentionally misrepresent any fact to any person;

(h) KCC shall be under the supervision and control of the Clerk's office with respect to the receipt and recordation of claims and claim transfers;

(i) KCC will comply with all requests of the Clerk's office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c); and

(j) None of the services provided by KCC as Claims and Noticing Agent in these chapter 11 cases shall be at the expense of the Clerk's office.

6. Although the Debtors do not propose to retain KCC under section 327 of the Bankruptcy Code pursuant to the Application (such retention will be sought by separate application), I caused to be submitted for review by our conflicts system the names of all known potential parties in interest (the "**Potential Parties in Interest**") in these chapter 11 cases. The list of Potential Parties in Interest was provided by the Debtors and included, among other parties, the Debtors, the Debtors' non-Debtor affiliates, current and former directors and officers of the Debtors, the Debtors' secured creditors and other lenders, the Debtors' thirty (30) largest unsecured creditors on a consolidated basis, and other various parties in interest in these chapter 11 cases. The results of the conflict check were compiled and reviewed by KCC professionals under my supervision. At this time, and as set forth in further detail herein, KCC is not aware of any connection that would present a disqualifying conflict of interest. Should KCC discover any new relevant facts or connections bearing on the matters described herein during the period of its retention, KCC will use reasonable efforts to file promptly a supplemental declaration.

7. To the best of my knowledge, and based solely upon information provided to me by the Debtors, and except as provided herein, neither KCC, nor any of its professionals, has any materially adverse connection to the Debtors, their creditors or other relevant parties. KCC may have relationships with certain of the Debtors' creditors as vendors or in connection with

cases in which KCC serves or has served in a neutral capacity as claims and noticing agent and/or administrative advisor for another chapter 11 debtor.

8. KCC has and will continue to represent clients in matters unrelated to these chapter 11 cases. In addition, KCC and its personnel have and will continue to have relationships personally or in the ordinary course of business with certain vendors, professionals and other parties in interest that may be involved in the Debtors' chapter 11 cases in matters unrelated to these cases. KCC may also provide professional services to entities or persons that may be creditors or parties in interest in these chapter 11 cases, which services do not directly relate to, or have any direct connection with, these chapter 11 cases or the Debtors.

9. KCC is an indirect subsidiary of Computershare Limited ("**Computershare**"). Computershare is a financial services and technologies provider for the global securities industry, including providing administrative transfer agent services such as maintaining records of shareholdings and share transfers. Within the Computershare corporate structure, KCC operates as a separate, segregated business unit. This separation extends to management, employees, access to information technology systems, and client information. As such, any relationships that Computershare and its affiliates maintain do not create an interest of KCC that would be materially adverse to the Debtors' estates or any class of creditors or equity security holders. Computershare Investor Services Ltd., an affiliate of Computershare, provides transfer agent services to Skillsoft Limited.

10. Prior to the Petition Date, the Debtors paid KCC a retainer in the amount of $60,000 (the "**Retainer**"). Through the Application, KCC seeks to first apply the Retainer to all prepetition invoices, following which the Retainer shall be replenished to the original Retainer amount, and thereafter, to hold such Retainer under the Engagement Agreement during the

Debtors' chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

11. KCC and its personnel in their individual capacities regularly utilize the services of law firms, accounting firms and financial advisors. Such firms engaged by KCC or its personnel may appear in chapter 11 cases representing the Debtors or parties in interest. All engagements where such firms represent KCC or its personnel in their individual capacities are unrelated to these chapter 11 cases.

12. Based on the foregoing, I believe that KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code. Moreover, to the best of my knowledge and belief, neither KCC nor any of its partners or employees holds or represents any interest materially adverse to the Debtors' estates with respect to any matter upon which KCC is to be engaged.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed on: June 14, 2020

/s/ *Robert Jordan*

Robert Jordan
Senior Managing Director
Kurtzman Carson Consultants LLC
1290 Avenue of the Americas, 9th Fl.
New York, NY 10104

Exhibit C

Engagement Agreement

KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 20th day of March 2020, between Skillsoft Corporation (together with its affiliates and subsidiaries, the "Company"),[1] and Kurtzman Carson Consultants LLC (together with its affiliates and subcontractors, "KCC"). In consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Terms and Conditions

I. SERVICES

A. KCC agrees to provide the Company with consulting services regarding noticing, claims management and reconciliation, plan solicitation, balloting, disbursements and any other services agreed upon by the parties or otherwise required by applicable law, government regulations or court rules or orders.

B. KCC further agrees to provide (i) computer software support and training in the use of the support software, (ii) KCC's standard reports as well as consulting and programming support for the Company requested reports, (iii) program modifications, (iv) data base modifications, and/or (v) other features and services in accordance with the fees outlined in a pricing schedule provided to the Company (the "KCC Fee Structure").

C. Without limiting the generality of the foregoing, KCC may, upon request by the Company, (i) provide a communications plan including, but not limited to, preparation of communications materials, dissemination of information and a call center staffed by KCC and/or (ii) provide confidential on-line workspaces or virtual data rooms and publish documents to such workspaces or data rooms (which publication shall not be deemed to violate the confidentiality provisions of this Agreement).

D. The price listed for each service in the KCC Fee Structure represents a bona fide proposal for such services, which may be accepted in whole or in part. Services will be provided when requested by the Company or required by applicable law, government regulations or court rules or orders. Services are mutually exclusive and are deemed delivered and accepted by the Company when provided by KCC.

E. The Company acknowledges and agrees that KCC will often take direction from the Company's representatives, employees, agents and/or professionals (collectively, the "Company Parties") with respect to the services being provided under this Agreement. The parties agree that KCC may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company. The Company agrees and understands that KCC shall not provide the Company or any other party with any legal advice.

[1] The term Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in its chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company's chapter 11 case.

KCC AGREEMENT FOR SERVICES

II. PRICES, CHARGES AND PAYMENT

A. KCC agrees to charge and the Company agrees to pay KCC for its services at the rates and prices set by KCC that are in effect as of the date of this Agreement and in accordance with the KCC Fee Structure. KCC's prices are generally adjusted periodically to reflect changes in the business and economic environment and are inclusive of all charges. KCC reserves the right to reasonably increase its prices, charges and rates; provided, however, that if any such increase exceeds 10%, KCC will give thirty (30) days written notice to the Company.

B. In addition to fees and charges for services, the Company agrees to pay KCC's reasonable and documented out-of-pocket transportation, lodging, and meal expenses incurred in connection with services provided under this Agreement.

C. In addition to all fees for services and expenses hereunder, the Company shall pay to KCC (i) any fees and charges related to, arising out of, or as a result of any error or omission made by the Company or the Company Parties, as mutually determined by KCC and the Company, and (ii) all taxes that are applicable to this Agreement or that are measured by payments made under this Agreement and are required to be collected by KCC or paid by KCC to a taxing authority.

D. Where the Company requires services that are unusual or beyond the normal business practices of KCC, or are otherwise not provided for in the KCC Fee Structure, the cost of such services shall be charged to the Company at a competitive rate as mutually agreed to by the Company and KCC.

E. KCC agrees to submit its invoices to the Company monthly and the Company agrees that the amount invoiced is due and payable upon the Company's receipt of the invoice. KCC's invoices will contain reasonably detailed descriptions of charges for both hourly (fees) and non-hourly (expenses) case specific charges. Where total invoice amounts are expected to exceed $10,000 in any single month and KCC reasonably believes it will not be paid, KCC may require advance payment from the Company due and payable upon demand and prior to the performance of services hereunder. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Company further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, the Company shall give written notice to KCC within ten (10) days of receipt of the invoice by the Company. The undisputed portion of the invoice will remain due and payable immediately upon receipt of the invoice. Late charges shall not accrue on any amounts in dispute or any amounts unable to be paid due to Court order or applicable law. Unless otherwise agreed to in writing, the fees for print notice and media publication (including commissions) must be paid at least three (3) days in advance of those fees and expenses being incurred. Certain fees and charges may need to be adjusted due to availability related to the COVID-19 (novel coronavirus) global health issue.

F. In the event that the Company files for protection pursuant to chapter 11 of the United States Bankruptcy Code (a "Chapter 11 Filing"), the parties intend that KCC shall be employed pursuant to 28 U.S.C. § 156(c) to the extent possible and otherwise in accordance with applicable Bankruptcy law and that all amounts due under this Agreement shall, to the extent possible, be paid as administrative expenses of the Company's chapter 11 estate. As soon as practicable

following a Chapter 11 Filing (and otherwise in accordance with applicable law and rules and orders of the Bankruptcy Court), the Company shall cause pleadings to be filed with the Bankruptcy Court seeking entry of an order or orders approving this Agreement (the "Retention Order"). The form and substance of the pleadings and the Retention Order shall be reasonably acceptable to KCC. If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services in accordance with the terms of this Agreement. The parties recognize and agree that if there is a conflict between the terms of this Agreement and the terms of the Retention Order, the terms of the Retention Order shall govern during the chapter 11 or other proceeding.

G. To the extent permitted by applicable law, KCC shall receive a retainer in the amount of $60,000 (the "Retainer") that may be held by KCC as security for the Company's payment obligations under the Agreement. The Retainer is due upon execution of this Agreement. KCC shall be entitled to hold the Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Retainer that remains following application of the Retainer to the payment of unpaid invoices.

III. RIGHTS OF OWNERSHIP

A. The parties understand that the software programs and other materials furnished by KCC pursuant to this Agreement and/or developed during the course of this Agreement by KCC are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Company agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement.

B. The Company further agrees that any ideas, concepts, know-how or techniques relating to data processing or KCC's performance of its services developed or utilized during the term of this Agreement by KCC shall be the exclusive property of KCC. Fees and expenses paid by the Company do not vest in the Company any rights in such property, it being understood that such property is only being made available for the Company's use during and in connection with the services provided by KCC under this Agreement.

IV. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information.

KCC AGREEMENT FOR SERVICES

V. SUSPENSION OF SERVICE AND TERMINATION

A. This Agreement shall remain in force until terminated or suspended by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

B. In the event that this contract is terminated, regardless of the reason for such termination, KCC shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions and KCC shall provide all necessary staff, services and assistance required for an orderly transfer. The Company agrees to pay for such services in accordance with KCC's then existing prices for such services. If such termination occurs following entry of the Retention Order, the Company shall promptly seek entry of an order (in form and substance reasonably acceptable to KCC) that discharges KCC from service and responsibility in the Company's bankruptcy case.

C. Any data, programs, storage media or other materials furnished by the Company to KCC or received by KCC in connection with the services provided under the terms of this Agreement may be retained by KCC until the services provided are paid for, or until this Agreement is terminated with the services paid in full. The Company shall remain liable for all fees and expenses imposed under this Agreement as a result of data or physical media maintained or stored by KCC. KCC shall dispose of the data and media in the manner requested by the Company. The Company agrees to pay KCC for reasonable expenses incurred as a result of the disposition of data or media. If the Company has not utilized KCC's services under this Agreement for a period of at least ninety (90) days, KCC may dispose of the data or media, and be reimbursed by the Company for the expense of such disposition, after giving the Company thirty (30) days' notice. Notwithstanding any term herein to the contrary, following entry of the Retention Order, the disposition of any data or media by KCC shall be in accordance with any applicable instructions from the clerk of the Bankruptcy Court, local Bankruptcy Court rules and orders of the Bankruptcy Court.

VI. SYSTEM IMPROVEMENTS

KCC strives to provide continuous improvements in the quality of service to its clients. KCC, therefore, reserves the right to make changes in operating procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the KCC data center serving the Company, so long as any such changes do not materially interfere with ongoing services provided to the Company in connection with the Company's chapter 11 case.

KCC AGREEMENT FOR SERVICES

VII. BANK ACCOUNTS

At the Company's request and subject to Court approval following any chapter 11 filing, KCC may be authorized to establish accounts with financial institutions in the name of and as agent for the Company. To the extent that certain financial products are provided to the Company pursuant to KCC's agreement with financial institutions, KCC may receive compensation from such financial institutions for the services KCC provides pursuant to such agreement.

VIII. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

A. The Company shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance under this Agreement. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. The Company shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that the Company becomes aware of with respect to the services provided by KCC under this Agreement. The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

B. Except as provided herein, KCC's liability to the Company or any person making a claim through or under the Company for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable to the Company for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement; provided, however, that this limitation shall not apply to the Company during any chapter 11 case in which the Company is a debtor.

C. The Company is responsible for the accuracy of the programs, data and information it or any Company Party submits for processing to KCC and for the output of such information. KCC does not verify information provided by the Company and, with respect to the preparation of schedules and statements, all decisions are at the sole discretion and direction of the Company. The Company reviews and approves all schedules and statements filed on behalf of, or by, the Company; KCC bears no responsibility for the accuracy or contents therein. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs and data submitted by the Company to KCC.

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or

express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

IX. FORCE MAJEURE

Whenever performance by KCC of any of its obligations hereunder is materially prevented or impacted by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war condition, or by reason of any other matter beyond KCC's reasonable control, then such performance shall be excused and this Agreement shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

X. INDEPENDENT CONTRACTORS

The Company and KCC are and shall be independent contractors of each other and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of this Agreement.

XI. NOTICES

All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or electronic mail or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth below:

Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway, 3rd Floor
El Segundo, CA 90245
Attn: Drake D. Foster
Tel: (310) 823-9000
Fax: (310) 823-9133
E-Mail: dfoster@kccllc.com

Skillsoft Corporation
300 Innovative Way, Suite 201
Nashua, NH 03062
Attn: Greg Porto
Tel: (603) 821-3623
E-Mail: Greg.Porto@skillsoft.com

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

XII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

XIII. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings, other agreements, and communications oral and written between the parties relating to the subject

matter of this Agreement. The Company represents that it has the authority to enter into this Agreement, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement may be modified only by a written instrument duly executed by an authorized representative of the Company and an officer of KCC.

XIV. COUNTERPARTS; EFFECTIVENESS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, which delivery may be made by exchange of copies of the signature page by facsimile or electronic mail.

XV. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned without written consent by KCC to a wholly-owned subsidiary or affiliate of KCC.

XVI. ATTORNEYS' FEES

In the event that any legal action, including an action for declaratory relief, is brought to enforce the performance or interpret the provisions of this Agreement, the parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs, and all other related expenses, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.

[SIGNATURE PAGE FOLLOWS]

KCC

KCC AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date mentioned above.

Kurtzman Carson Consultants LLC

BY: Evan Gershbein DATE: 5/24/20
TITLE: EVP, Corporate Restructuring Services

Skillsoft Corporation

BY: Greg Porto DATE: 5.24.20
TITLE: Chief People officer

TAB T

Order Authorizing the Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 12**

ORDER AUTHORIZING THE APPOINTMENT OF KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS AND NOTICING AGENT *NUNC PRO TUNC* TO THE PETITION DATE

Upon the application (the "**Application**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 156(c) of title 28 of the United States Code, section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), requesting entry of an order appointing Kurtzman Carson Consultants LLC ("**KCC**") as claims and noticing agent ("**Claims and Noticing Agent**") in the Debtors' chapter 11 cases, which will include KCC assuming full responsibility for the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

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distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Debtors' chapter 11 cases, all as more fully set forth in the Application; and upon the Jordan Declaration, filed contemporaneously with and attached to the Application as Exhibit B; and the Debtors having estimated that there are in excess of 10,000 notice parties in these chapter 11 cases; and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that KCC has the capability and experience to provide such services and that KCC does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Application having been provided to the Notice Parties, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Application, the record of the Hearing and all of the proceedings had before the Court is in the best interests of the Debtors, their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Application

establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Debtors are authorized to retain KCC as Claims and Noticing Agent effective *nunc pro tunc* to the Petition Date under the terms of the Engagement Agreement.

2. KCC is authorized and directed to perform noticing services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (collectively, the "**Claims and Noticing Services**").

3. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

4. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

5. KCC is authorized to take such other action to comply with all duties set forth in the Application.

6. The Debtors are authorized to compensate KCC in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by KCC and the rates charged for each, and to reimburse KCC for all reasonable and necessary expenses it may incur, upon the presentation of appropriate

documentation, without the need for KCC to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

7. KCC shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the Office of the United States Trustee for the District of Delaware, counsel for the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party-in-interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Engagement Agreement or monthly invoices; provided that the parties may seek resolution of the matter from the Court if resolution is not achieved.

8. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates.

9. KCC may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, KCC may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

10. The Debtors shall indemnify KCC under the terms of the Engagement Agreement, as modified pursuant to this Order.

11. KCC shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Agreement for services other than the services provided under the Engagement Agreement, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court.

12. Notwithstanding anything to the contrary in the Engagement Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations if the Court determines that indemnification, contribution or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution or reimbursement under the terms of the Engagement Agreement as modified by this Order.

13. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), or (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Agreement (as modified by this Order), including the advancement of defense costs, KCC must file an application therefor in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution or reimbursement.

14. In the event KCC is unable to provide the services set out in this order, KCC will immediately notify the Clerk and the Debtors' attorney and, upon approval of the Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' attorney.

15. The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

16. The Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

17. Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

18. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

19. KCC shall not cease providing claims processing services during the chapter 11 cases for any reason, including nonpayment, without an order of the Court.

20. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

21. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB U

Motion of Debtors Pursuant to 11 U.S.C. § 105 for Entry of and Order Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS PURSUANT TO 11 U.S.C. § 105 FOR ENTRY OF AN ORDER ENFORCING THE PROTECTIONS OF 11 U.S.C. §§ 362, 365, 525, AND 541

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, the Debtors request entry of an order, pursuant to section 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**"), enforcing the protections of sections 362, 365, 525, and 541 of the Bankruptcy Code to aid in the administration of these chapter 11 cases and to help ensure that the Debtors' global business operations are not disrupted.

2. A proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit A** (the "**Proposed Order**").

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013–1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

6. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*

(the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

7. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the Ad Hoc First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

8. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan, which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

9. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Relief Requested Should Be Granted

10. As discussed below, sections 362, 365, 525, and 541 of the Bankruptcy Code automatically provide certain protections to the Debtors as a result of filing these chapter 11 cases; however, given the nature of the Company's business, many of the Debtors' creditors, contract counterparties, and other parties in interest are based outside of the United States and may be unfamiliar with these provisions of the Bankruptcy Code. Accordingly, the Debtors seek entry of an order embodying these aspects of the Bankruptcy Code. The Debtors are not asking the Court to grant any relief beyond the protections that are already automatically provided to the Debtors under the Bankruptcy Code, but merely seek a "comfort order" that can be shown to parties in interest.

11. As a result of the commencement of the Debtors' chapter 11 cases, and by operation of law pursuant to section 362 of the Bankruptcy Code, the automatic stay enjoins all entities from, among other things: (i) commencing or continuing any judicial, administrative, or other action or proceeding against any of the Debtors that was or could have been initiated before the Petition Date; (ii) recovering a claim against any of the Debtors that arose before the Petition Date; (iii) enforcing against any of the Debtors or property of their estates a judgment that was obtained before the Petition Date; or (iv) taking any action to collect, assess, or recover a claim against any of the Debtors that arose before the Petition Date. *See* 11 U.S.C. § 362.

12. The injunction contained in section 362 of the Bankruptcy Code is self-executing. It constitutes a fundamental debtor protection that, together with other provisions of the Bankruptcy Code, provides a debtor with a "breathing spell" that is essential to a successful reorganization. *See, e.g.*, *Borman v. Raymark Indus., Inc.*, 946 F.2d 1031, 1033 (3d Cir. 1991) ("The automatic stay was intended to give the debtor 'a breathing spell from his creditors…. It

permits the debtor to attempt a repayment or reorganization plan, or simply to be relieved of the financial pressures that drove him into bankruptcy.'") (quoting H.R. Rep. No. 95-959, at 340 (1978), U.S. Code Cong. & Admin. News 1978, pp. 5963, 6296-97).

13. The protections of the automatic stay apply to a debtor's property wherever located and by whomever held. *See* 11 U.S.C. § 541(a); *In re Allen*, 768 F.3d 274, 276, 279 (3d Cir. 2014) (stating that "[b]ankruptcy jurisdiction, at its core, is *in rem*" and holding that actual possession by the debtor is not required for property to be part of the debtor's estate) (internal citation and quotation marks omitted) (alteration and emphasis in original); *Underwood v. Hilliard (In re Rimsat, Ltd.)*, 98 F.3d 956, 961 (7th Cir. 1996) (bankruptcy court's *in rem* jurisdiction over property of estate permits injunctions against foreign proceedings pursuant to the automatic stay). The automatic stay, therefore, applies to the Debtors' assets and operations throughout the world.

14. Section 365(e)(1) of the Bankruptcy Code renders insolvency termination provisions in contracts unenforceable against a chapter 11 debtor. Specifically, section 365(e)(1) provides that:

> Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—
>
> (A) the insolvency or financial condition of the debtor at any time before the closing of the case;
>
> (B) the commencement of a case under this title; or
>
> (C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

11 U.S.C. § 365(e)(1). Bankruptcy Courts have applied section 365(e)(1) liberally, holding that provisions modifying or terminating the relationships of the contracting parties due to the filing of

a bankruptcy case are "unenforceable as a matter of law." *In re W.R. Grace & Co.,* 475 B.R. 34, 152 (D. Del. 2012) (collecting cases).

15. Similarly, pursuant to section 541(c) of the Bankruptcy Code, a provision in an agreement, transfer instrument, or applicable nonbankruptcy law is unenforceable if such provision "restricts or conditions transfer of such interest by the debtor" or:

> that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

11 U.S.C. § 541(c)(1)(B).

16. Pursuant to section 525(a) of the Bankruptcy Code, "governmental units," including foreign "governmental units," are prohibited from, among other things, denying, revoking, suspending, or refusing to renew licenses, permits, charters, franchises, or other similar grants held by a chapter 11 debtor (or persons with whom the debtor is associated, including affiliates) on the basis that the debtor has failed to pay a dischargeable debt, commenced a chapter 11 case, or was insolvent prior to the commencement of such case. *See* 11 U.S.C. § 525(a). The Bankruptcy Code defines "governmental unit" as the "United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government." 11 U.S.C. § 101(27). Thus, the protections of section 525(a) apply broadly to local, state, and foreign governmental units.

17. Notwithstanding the self-executing and global nature of sections 362, 365, 525, and 541 of the Bankruptcy Code, not all parties affected, or potentially affected, by the

commencement of these chapter 11 cases are aware of these statutory provisions or their significance and impact. Therefore, it is prudent to obtain an order confirming and reinforcing the relevant provisions of the aforementioned sections of the Bankruptcy Code.

18. The requested relief is particularly appropriate in these chapter 11 cases, as the Company includes fifty (50) separate entities organized under the laws of twenty-one (21) different jurisdictions. Nineteen (19) of such entities are obligors on the Company's funded debt, which entities are organized under the laws of Canada, Ireland, Luxembourg, the United Kingdom, and the United States. In addition, the Debtors, through their various debtor and non-debtor affiliates and subsidiaries, operate in numerous locales with different legal systems, including Australia, Austria, Canada, France, Germany, Hong Kong, India, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Singapore, Switzerland and the United Kingdom. The Debtors engage with numerous foreign customers, suppliers, and other vendors, as well as foreign regulators and other governmental units. The Debtors believe that, absent an order from this Court, parties might attempt to take improper actions against the Debtors and/or property of their estates.

19. Section 105(a) of the Bankruptcy Code empowers the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Granting the relief requested in this Motion is fully consistent with the terms of the Bankruptcy Code and will facilitate a smooth and orderly transition of the Debtors' operations into chapter 11 and minimize the disruption of their business affairs. The Debtors, therefore, request that this Court grant the requested relief. Granting the requested relief, which the Debtors will be able to transmit to affected parties, will give effect to the protections under sections 362, 365, 525, and 541 of the Bankruptcy Code by proactively confirming the

applicability and effect of these provisions in the form of an order that bears the imprimatur of a federal court and may be transmitted to third parties as necessary.

Notice

20. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq., and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

ORDER PURSUANT TO 11 U.S.C. § 105 ENFORCING THE PROTECTIONS OF 11 U.S.C. §§ 362, 365, 525, AND 541

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), pursuant to section 105 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order enforcing the protections of sections 362, 365, 525, and 541 of the Bankruptcy Code, to aid in the administration of these chapter 11 cases and to help ensure that the Debtors' global business operations are not disrupted, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. Pursuant to section 362 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 1**), the commencement of these chapter 11 cases shall operate as a stay, applicable to all persons (including individuals, partnerships, corporations, and all those acting for or on their behalf) and all foreign or domestic governmental units (and all those acting for or on their behalf) of:

   a. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of the Debtors' chapter 11 cases, or to recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

   b. the enforcement, against the Debtors or against property of their estates, of a judgment obtained before the commencement of the Debtors' chapter 11 cases;

   c. any act to obtain possession of property of the estates or of property from the estates or to exercise control over property of the Debtors' estates;

   d. any act to create, perfect, or enforce any lien against property of the Debtors' estates;

e. any act to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose before the commencement of the Debtors' chapter 11 cases;

f. any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

g. the setoff of any debt owing to the Debtors that arose before the commencement of these chapter 11 cases; and

h. the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of the Debtors for a taxable period the bankruptcy court may determine.

3. This Order shall not affect the exceptions to the automatic stay contained in section 362(b) of the Bankruptcy Code or the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code.

4. Pursuant to section 365 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 2**), and notwithstanding any contract or lease provision or applicable law, an executory contract or unexpired lease of the Debtors may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the Debtors' chapter 11 cases solely because of a provision in such contract or lease that is conditioned on (i) the insolvency or financial condition of any or all Debtors or (ii) the commencement of the Debtors' chapter 11 cases.

5. Pursuant to section 525 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 3**), a foreign or domestic governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, the Debtors or the Debtors' affiliates on account of (i) the commencement of the Debtors' chapter 11 cases; (ii) the

Debtors' insolvency; or (iii) the fact that the Debtors have not paid a debt that is dischargeable in the Debtors' chapter 11 cases.

6. Pursuant to section 541 of the Bankruptcy Code, (a copy of the text of which is annexed hereto as **Exhibit 4**), any interest of the Debtors in property becomes property of the estates, notwithstanding any provision in any agreement, transfer instrument, or applicable nonbankruptcy law, that: (a) restricts or conditions transfer of such interest by the Debtors, or (b) is conditioned on the insolvency or financial condition of the Debtors or on the commencement of the Debtors' chapter 11 cases, and that effects or gives an option to effect a forfeiture, modification, or termination of the Debtor's interest in property. Any purported restriction, condition, forfeiture, modification, or termination is void *ab initio*.

7. This Order is intended to be declarative of and coterminous with, and shall neither abridge, enlarge nor modify, the rights and obligations of any party under sections 362, 365, 525, and 541 of the Bankruptcy Code or any other provision of the Bankruptcy Code.

8. The Debtors are authorized to take all steps necessary to carry out this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Section 362 of the Bankruptcy Code

§ 362. Automatic Stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a)—

(A) of the commencement or continuation of a civil action or proceeding—

(i) for the establishment of paternity;

(ii) for the establishment or modification of an order for domestic support obligations;

(iii) concerning child custody or visitation;

(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

(v) regarding domestic violence;

(B) of the collection of a domestic support obligation from property that is not property of the estate;

(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;

(3) under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title;

(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money

judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;
[(5) Repealed. Pub. L. 105–277, div. I, title VI, § 603(1), Oct. 21, 1998, 112 Stat. 2681–866;]
(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;
(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(8) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units;
(9) under subsection (a), of—

(A) an audit by a governmental unit to determine tax liability;
(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;
(C) a demand for tax returns; or
(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).

(10) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property;
(11) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument;
(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under chapter 537 of title 46 or section 109(h) of title 49, or under applicable State law;
(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under chapter 537 of title 46;
(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;
(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution;
(16)under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act;
(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in

section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;

(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;

(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

> **(A)** to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or
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> **(B)** a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;
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> but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;

(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

> **(A)** if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or
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> **(B)** if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;

(22) subject to subsection (*l*), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

(25) under subsection (a), of—

> **(A)** the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;
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> **(B)** the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or
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> **(C)** any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;

(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);

(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and

(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B)on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors, if—

(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

(aa) if a case under chapter 7, with a discharge; or

(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

(4)

(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors if—

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization;

(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—

(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(B) the debtor has commenced monthly payments that—

(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

(e)

(1) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances.

(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) such 60-day period is extended—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(f) Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

(h)

(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.

(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

(k)

(1) Except as provided in paragraph (2), an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.

(l)

(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

(3)

(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

(5)

(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

(m)

(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

(2)

(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.

(n)

(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

(A) is a debtor in a small business case pending at the time the petition is filed;

(B)was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the

evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

(2) Paragraph (1) does not apply—

(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition if—

(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.

(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.

Exhibit 2

Section 365 of the Bankruptcy Code

§ 365. Executory contracts and unexpired leases

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)

(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title;

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement; or

(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.

(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1)

(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

(3) such lease is of nonresidential real property and has been terminated under applicable nonbankruptcy law prior to the order for relief.

(d)

(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, 12, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(4) (A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(i) the date that is 120 days after the date of the order for relief; or

(ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

(5) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(e)

(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(A)

(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)

(1) Except as provided in subsections (b) and (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsections (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112, 1208, or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112, 1208, or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)

(1)

(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease,

but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

(D) In this paragraph, "lessee" includes any successor, assign, or mortgagee permitted under the terms of such lease.

(2)

(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(i)

(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

(l) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(10), leases of real property shall include any rental agreement to use real property.

(n)

(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

(i) the duration of such contract; and

(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

(A) the trustee shall allow the licensee to exercise such rights;

(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

(C) the licensee shall be deemed to waive—

(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract or any agreement supplementary to such contract—

(i) perform such contract; or

(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to a Federal depository institutions regulatory agency (or predecessor to such agency) to maintain the capital of an insured depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.

(p)

(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

(2)

(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.

Exhibit 3

Section 525 of the Bankruptcy Code

§ 525. Protection Against Discriminatory Treatment

(a) Except as provided in the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943, a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.

(c)

(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a student grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(2) In this section, "student loan program" means any program operated under title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.

Exhibit 4

Section 541 of the Bankruptcy Code

§ 541. Property of the Estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include—

(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor;

(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case;

(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.),[1] or any accreditation status or State licensure of the debtor as an educational institution;

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

(A)

(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 544(a)(3) of this title; or

(B)

(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 542 of this title;

(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(6) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(7) any amount—

(A) withheld by an employer from the wages of employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

(B) received by an employer from employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title;

(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b);

(9) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor), unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition; or

(10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(h) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,225. Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.

(c)

(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.

(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

TAB V

Order Pursuant to 11 U.S.C. § 105 Enforcing the Protections of 11 U.S.C. §§ 362, 365, 525, and 541

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 11**

ORDER PURSUANT TO 11 U.S.C. § 105 ENFORCING THE PROTECTIONS OF 11 U.S.C. §§ 362, 365, 525, AND 541

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), pursuant to section 105 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order enforcing the protections of sections 362, 365, 525, and 541 of the Bankruptcy Code, to aid in the administration of these chapter 11 cases and to help ensure that the Debtors' global business operations are not disrupted, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. Pursuant to section 362 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 1**), the commencement of these chapter 11 cases shall operate as a stay, applicable to all persons (including individuals, partnerships, corporations, and all those acting for or on their behalf) and all foreign or domestic governmental units (and all those acting for or on their behalf) of:

   a. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of the Debtors' chapter 11 cases, or to recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

   b. the enforcement, against the Debtors or against property of their estates, of a judgment obtained before the commencement of the Debtors' chapter 11 cases;

   c. any act to obtain possession of property of the estates or of property from the estates or to exercise control over property of the Debtors' estates;

d. any act to create, perfect, or enforce any lien against property of the Debtors' estates;

e. any act to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose before the commencement of the Debtors' chapter 11 cases;

f. any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 11 cases;

g. the setoff of any debt owing to the Debtors that arose before the commencement of these chapter 11 cases; and

h. the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of the Debtors for a taxable period the bankruptcy court may determine.

3. This Order shall not affect the exceptions to the automatic stay contained in section 362(b) of the Bankruptcy Code or the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code.

4. Pursuant to section 365 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 2**), and notwithstanding any contract or lease provision or applicable law, an executory contract or unexpired lease of the Debtors may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the Debtors' chapter 11 cases solely because of a provision in such contract or lease that is conditioned on (i) the insolvency or financial condition of any or all Debtors or (ii) the commencement of the Debtors' chapter 11 cases.

5. Pursuant to section 525 of the Bankruptcy Code (a copy of the text of which is annexed hereto as **Exhibit 3**), a foreign or domestic governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, the Debtors or the

Debtors' affiliates on account of (i) the commencement of the Debtors' chapter 11 cases; (ii) the Debtors' insolvency; or (iii) the fact that the Debtors have not paid a debt that is dischargeable in the Debtors' chapter 11 cases.

6. Pursuant to section 541 of the Bankruptcy Code, (a copy of the text of which is annexed hereto as **Exhibit 4**), any interest of the Debtors in property becomes property of the estates, notwithstanding any provision in any agreement, transfer instrument, or applicable nonbankruptcy law, that: (a) restricts or conditions transfer of such interest by the Debtors, or (b) is conditioned on the insolvency or financial condition of the Debtors or on the commencement of the Debtors' chapter 11 cases, and that effects or gives an option to effect a forfeiture, modification, or termination of the Debtor's interest in property. Any purported restriction, condition, forfeiture, modification, or termination is void *ab initio*.

7. This Order is intended to be declarative of and coterminous with, and shall neither abridge, enlarge nor modify, the rights and obligations of any party under sections 362, 365, 525, and 541 of the Bankruptcy Code or any other provision of the Bankruptcy Code.

8. The Debtors are authorized to take all steps necessary to carry out this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Section 362 of the Bankruptcy Code

§ 362. Automatic Stay

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of—

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

(4) any act to create, perfect, or enforce any lien against property of the estate;

(5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title;

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

(7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a debtor that is a corporation for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title.

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay—

(1) under subsection (a) of this section, of the commencement or continuation of a criminal action or proceeding against the debtor;

(2) under subsection (a)—

(A) of the commencement or continuation of a civil action or proceeding—

(i) for the establishment of paternity;

(ii) for the establishment or modification of an order for domestic support obligations;

(iii) concerning child custody or visitation;

(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

(v) regarding domestic violence;

(B) of the collection of a domestic support obligation from property that is not property of the estate;

(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;

(3) under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title;

(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money

judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;
[(5) Repealed. Pub. L. 105–277, div. I, title VI, § 603(1), Oct. 21, 1998, 112 Stat. 2681–866;]
(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;
(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(8) under subsection (a) of this section, of the commencement of any action by the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units;
(9) under subsection (a), of—

> **(A)** an audit by a governmental unit to determine tax liability;
> **(B)** the issuance to the debtor by a governmental unit of a notice of tax deficiency;
> **(C)** a demand for tax returns; or
> **(D)** the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).

(10) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property;
(11) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument;
(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under chapter 537 of title 46 or section 109(h) of title 49, or under applicable State law;
(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under section 31325 of title 46 (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under chapter 537 of title 46;
(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;
(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution;
(16)under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act;
(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in

section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;
(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;
(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;

(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;
(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;

(22) subject to subsection (*l*), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;
(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;
(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;
(25) under subsection (a), of—

(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;

(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);

(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and

(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

(B)on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors, if—

(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

(bb) provide adequate protection as ordered by the court; or

(cc) perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

(aa) if a case under chapter 7, with a discharge; or

(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

(4)

(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors if—

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization;

(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period) or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later—

(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(B) the debtor has commenced monthly payments that—

(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

(e)

(1) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances.

(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

(B) such 60-day period is extended—

(i) by agreement of all parties in interest; or

(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.

(f) Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section—

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

(h)

(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.

(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.

(k)

(1) Except as provided in paragraph (2), an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.

(l)

(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

(3)

(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

(5)

(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

(m)

(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

(2)

(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.

(n)

(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

(A) is a debtor in a small business case pending at the time the petition is filed;

(B)was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the

evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

(2) Paragraph (1) does not apply—

(A) to an involuntary case involving no collusion by the debtor with creditors; or

(B) to the filing of a petition if—

(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.

(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.

Exhibit 2

Section 365 of the Bankruptcy Code

§ 365. Executory contracts and unexpired leases

(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

(b)

(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title;

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement; or

(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.

(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(1)

(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(B) such party does not consent to such assumption or assignment; or

(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

(3) such lease is of nonresidential real property and has been terminated under applicable nonbankruptcy law prior to the order for relief.

(d)

(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

(2) In a case under chapter 9, 11, 12, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(4) (A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

(i) the date that is 120 days after the date of the order for relief; or

(ii) the date of the entry of an order confirming a plan.

(B)

(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

(5) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

(e)

(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

(B) the commencement of a case under this title; or

(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

(2) Paragraph (1) of this subsection does not apply to an executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

(A)

(i) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to the trustee or to an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

(ii) such party does not consent to such assumption or assignment; or

(B) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

(f)

(1) Except as provided in subsections (b) and (c) of this section, notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease under paragraph (2) of this subsection.

(2) The trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

(3) Notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.

(g) Except as provided in subsections (h)(2) and (i)(2) of this section, the rejection of an executory contract or unexpired lease of the debtor constitutes a breach of such contract or lease—

(1) if such contract or lease has not been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title, immediately before the date of the filing of the petition; or

(2) if such contract or lease has been assumed under this section or under a plan confirmed under chapter 9, 11, 12, or 13 of this title—

(A) if before such rejection the case has not been converted under section 1112, 1208, or 1307 of this title, at the time of such rejection; or

(B) if before such rejection the case has been converted under section 1112, 1208, or 1307 of this title—

(i) immediately before the date of such conversion, if such contract or lease was assumed before such conversion; or

(ii) at the time of such rejection, if such contract or lease was assumed after such conversion.

(h)

(1)

(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease,

but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

(D) In this paragraph, "lessee" includes any successor, assign, or mortgagee permitted under the terms of such lease.

(2)

(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

(i)

(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.

(2) If such purchaser remains in possession—

(A) such purchaser shall continue to make all payments due under such contract, but may, offset against such payments any damages occurring after the date of the rejection of such contract caused by the nonperformance of any obligation of the debtor after such date, but such purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset; and

(B) the trustee shall deliver title to such purchaser in accordance with the provisions of such contract, but is relieved of all other obligations to perform under such contract.

(j) A purchaser that treats an executory contract as terminated under subsection (i) of this section, or a party whose executory contract to purchase real property from the debtor is rejected and under which such party is not in possession, has a lien on the interest of the debtor in such property for the recovery of any portion of the purchase price that such purchaser or party has paid.

(k) Assignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

(l) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(10), leases of real property shall include any rental agreement to use real property.

(n)

(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

(i) the duration of such contract; and

(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

(A) the trustee shall allow the licensee to exercise such rights;

(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

(C) the licensee shall be deemed to waive—

(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

(A) to the extent provided in such contract or any agreement supplementary to such contract—

(i) perform such contract; or

(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to a Federal depository institutions regulatory agency (or predecessor to such agency) to maintain the capital of an insured depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.

(p)

(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

(2)

(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.

Exhibit 3

Section 525 of the Bankruptcy Code

§ 525. Protection Against Discriminatory Treatment

(a) Except as provided in the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and section 1 of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes," approved July 12, 1943, a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.

(c)

(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a student grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(2) In this section, "student loan program" means any program operated under title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.

Exhibit 4

Section 541 of the Bankruptcy Code

§ 541. Property of the Estate

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

(b) Property of the estate does not include—

(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor;

(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case;

(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.),[1] or any accreditation status or State licensure of the debtor as an educational institution;

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

(A)

(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 544(a)(3) of this title; or

(B)

(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 365 or 542 of this title;

(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(6) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

(7) any amount—

(A) withheld by an employer from the wages of employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

(B) received by an employer from employees for payment as contributions—

(i) to—

(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

(ii) to a health insurance plan regulated by State law whether or not subject to such title;

(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

(A) the tangible personal property is in the possession of the pledgee or transferee;

(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b);

(9) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor), unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition; or

(10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

(B) only to the extent that such funds—

(i) are not pledged or promised to any entity in connection with any extension of credit; and

(ii) are not excess contributions (as described in section 4973(h) of the Internal Revenue Code of 1986); and

(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $6,225. Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.

(c)

(1) Except as provided in paragraph (2) of this subsection, an interest of the debtor in property becomes property of the estate under subsection (a)(1), (a)(2), or (a)(5) of this section notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—

(A) that restricts or conditions transfer of such interest by the debtor; or

(B) that is conditioned on the insolvency or financial condition of the debtor, on the commencement of a case under this title, or on the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement, and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property.

(2) A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

(d) Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.

(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.

TAB W

Motion of Debtors for Entry of an Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505

Docket #0005 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING SKILLSOFT CANADA, LTD. TO ACT AS FOREIGN REPRESENTATIVE ON BEHALF OF THE DEBTORS' ESTATES PURSUANT TO 11 U.S.C. § 1505

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):[2]

Relief Requested

1. Pursuant to section 1505 of title 11 of the United States Code (the "**Bankruptcy Code**"), the Debtors request that Skillsoft Canada, Ltd. ("**Skillsoft Canada**") be authorized to act as Foreign Representative (as defined herein) on behalf of the Debtors' estates in the Canadian Recognition Proceeding (as defined herein). The Debtors further request

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtor's corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] The facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration (as defined herein) filed contemporaneously herewith. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

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that, as Foreign Representative, Skillsoft Canada be expressly authorized to (i) seek recognition of these chapter 11 cases and certain of this Court's orders in Canada, including the DIP Order, (ii) request that the Canadian Court (as defined herein) lend assistance to this Court in protecting the property of the Debtors' estates, and (iii) seek any other appropriate relief from the Canadian Court that is just and proper in furtherance of the protection of the Debtors' estates.

2. A proposed form of order approving the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

6. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the Declaration of *John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.

7. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

8. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint*

Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

9. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as

efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

10. The Restructuring Support Agreement contains a milestone requiring Skillsoft Canada, as a "foreign representative", to commence within four (4) business days following entry of the Interim DIP Order and Prepack Scheduling Order (each as defined in the Restructuring Support Agreement) a recognition proceeding in the Court of Queen's Bench of New Brunswick (Trial Division) (the "**Canadian Court**") pursuant to the Companies' Creditors Arrangement Act (Canada), R.S.C. 1985, c. C-36 as amended (the "**CCAA**") to seek an order or orders of the Canadian Court, among other things, recognizing the Debtors' chapter 11 cases as a "foreign main proceeding" under the applicable provisions of the CCAA and giving full force and effect to this Court's orders in Canada (the "**Canadian Recognition Proceeding**").

Appointment of Foreign Representative

11. As more fully described in the First Day Declaration, the Company is a global enterprise software and technology provider of (i) learning content (including courses, videos, books and other learning assets) that supports learning, performance and success; (ii) an intelligent learning experience platform designed to engage modern learners via a consumer-led experience to accelerate learning; and (iii) a talent development technology platform that supports an organization's talent acquisition, learning management and talent management.

12. As a global enterprise, the Company, among other things, (i) conducts business in numerous foreign jurisdictions, including Canada, (ii) includes entities which are incorporated under the laws of various foreign jurisdictions, (iii) has many key contracts that are

governed by the laws of foreign jurisdictions, (iv) has many foreign creditors, and (v) has a global customer base.

13. Skillsoft Canada, a borrower under the First Lien Revolving Facility and guarantor with respect to the Company's First Lien Term Loan Facility and Second Lien Term Loan Facility, is incorporated under the laws of the Canadian Province of New Brunswick and maintains assets and operations in that jurisdiction. As a result of the Company's assets and operations in Canada, which are interconnected with the Debtors' global operations, it is necessary to ensure that these chapter 11 cases, as well as orders of the Court issued herein, are recognized and respected in Canada.

14. As a result of the above and pursuant to the terms of the Restructuring Support Agreement, Skillsoft Canada (as the proposed Foreign Representative) will shortly file an application with the Canadian Court on behalf of the Debtors' estates pursuant to the CCAA to commence the Canadian Recognition Proceeding. The purpose of the Canadian Recognition Proceeding is to request that the Canadian Court recognize these chapter 11 cases as a "foreign main proceeding" under the applicable provisions of the CCAA, enforce this Court's orders in Canada to protect the Debtors' assets and operations in Canada and help implement the Debtors' restructuring, and seek certain other ancillary relief.

15. To commence the Canadian Recognition Proceeding, the Debtors require authority for a Debtor to act as the "foreign representative" on behalf of the Debtors' estates by order of this Court.

16. Although the Debtors operate in foreign jurisdictions other than Canada, the Debtors do not believe additional recognition proceedings will be necessary to give effect or implement these chapter 11 cases. The Debtors reserve all rights, however, to seek appointment

of foreign representative(s), as needed, with respect to ancillary proceedings in other jurisdictions if the Company ultimately determines commencing additional proceedings is necessary or desirable to give effect to the chapter 11 cases and/or implement the restructuring transactions contemplated by the Prepackaged Plan.

Relief Requested

17. By this Motion, the Debtors seek entry of an order, pursuant to section 1505 of the Bankruptcy Code, to appoint Skillsoft Canada to act as the "foreign representative" on behalf of the Debtors' estates (the "**Foreign Representative**") in the Canadian Recognition Proceeding.

Basis for Relief Requested

18. Section 46 of the CCAA provides that a foreign representative may apply to a Canadian court for recognition of a foreign proceeding in respect of which they are a foreign representative. CCAA, R.S.C., Ch. C-36, § 46 (1985) (Can.). Under the CCAA, a recognition application must be accompanied by a "certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative's authority to act in that capacity." *Id*. at § 46(2)(b).

19. Accordingly, in order for Skillsoft Canada to be recognized as the Foreign Representative in the Canadian Recognition Proceeding, and thereby apply to have these chapter 11 cases recognized by the Canadian Court, this Court must enter an order authorizing Skillsoft Canada to act as the Foreign Representative in the Canadian Recognition Proceeding. If the order is granted, Skillsoft Canada will be able to file the order with the Canadian Court as the instrument authorizing Skillsoft Canada to act as Foreign Representative pursuant to section 46 of the CCAA.

20. Although the provisions of chapter 15 of the Bankruptcy Code generally do not apply to other chapters of the Bankruptcy Code, pursuant to section 103(k)(1) of the Bankruptcy Code, section 1505 of the Bankruptcy Code applies to any case under the Bankruptcy Code. Specifically, section 103(k)(1) of the Bankruptcy Code provides that:

> Chapter 15 applies only in a case under such chapter, except that— (1) sections 1505, 1513, and 1514 apply in all cases under this title.

11 U.S.C. § 103(k)(1).

21. Section 1505 of the Bankruptcy Code allows a debtor in possession to obtain a court order recognizing the debtor in possession as foreign representative of the debtor's estate in order to submit a petition to a foreign court requesting recognition of the debtor's chapter 11 case. Specifically, section 1505 of the Bankruptcy Code provides that:

> A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

11 U.S.C. § 1505.

22. Authorizing Skillsoft Canada to act as the Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding will provide an effective mechanism to protect and maximize the value of the Debtors' assets and estates. Because the Debtors have assets in Canada, it is critical that a stay under the CCAA similar to the automatic stay imposed pursuant to section 362 of the Bankruptcy Code be granted in Canada, and that this Court's orders also be recognized in Canada. In addition, as Skillsoft Canada is a guarantor of the DIP Financing it is critical (and a milestone pursuant to the DIP Financing) that the Canadian Court recognize and give effect to this Court's DIP Order.

23. Similar relief to that requested herein has been granted by courts in other large chapter 11 cases where a debtor has foreign assets and/or operations. *See, e.g., In re Pier 1 Imports, Inc., et al,* No 20-30805 (KRH) (Bankr. E.D. Vir Feb. 17, 2020); *In re Jack Cooper Ventures, Inc. et al*., No. 19-62393 (PWB) (Bankr. N.D. Ga. Aug. 8, 2019); *In re Hollander Sleep Products, LLC*, No. 19-11608 (MEW) (Bankr. S.D.N.Y. May 22, 2019); *In re Imerys Talc America, Inc., et al.*, No. 19–10289 (LSS) (Bankr. D. Del. Feb. 14, 2019); *In re TK Holdings Inc.*, No. 17–11375 (BLS) (Bankr. D. Del. June 27, 2017); *In re Aéropostale, Inc., et al.*, No. 16-11275 (SHL) (Bankr S.D.N.Y. May 6, 2016); *In re Ultra Petroleum Corp., et. al.*, No. 16-32202 (MI) (Bankr. S.D. Tex. May 3, 2016); *In re Horsehead Holding Corp*., No. 16-10287 (CSS) (Bankr. D. Del. Feb. 4, 2016); *In re Colt Holding Co. LLC*, No. 15-11296 (LSS) (Bankr. D. Del. June 16, 2015); *In re Vertis Holdings, Inc. et al.*, Case No. 12-12821 (CSS) (Bankr. D. Del. Feb. 19, 2013); *In re LightSquared Inc*., et al., Case No. 12-12080 (SCC) (Bankr. S.D.N.Y. June 11, 2012); *In re Bigler LP*, No. 09-38188 (JB) (Bankr. S.D. Tex. Jan. 13, 2010).

Notice

24. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.)); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York,

New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). Based on the urgency of the circumstances surrounding this Motion and the need to commence the Canadian Recognition Proceeding as soon as possible, the Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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- and -

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Proposed Attorneys for Debtors and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

ORDER AUTHORIZING SKILLSOFT CANADA, LTD.
TO ACT AS FOREIGN REPRESENTATIVE ON BEHALF
OF THE DEBTORS' ESTATES PURSUANT TO 11 U.S.C. § 1505

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for an order pursuant to section 1505 of title 11 of the United States Code (the "**Bankruptcy Code**"), authorizing Skillsoft Canada, Ltd. ("**Skillsoft Canada**") to act as Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding, as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtor's corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted as set forth herein.

2. Skillsoft Canada is authorized, pursuant to section 1505 of the Bankruptcy Code, to act as the Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding. As Foreign Representative, Skillsoft Canada shall be authorized and have the power to act in any way permitted by applicable foreign law, including, but not limited to (i) seeking recognition of these chapter 11 cases and this Court's orders, including the DIP Order, in the Canadian Recognition Proceeding, (ii) requesting that the Canadian Court lend assistance to this Court in protecting the property of the Debtors' estates, and (iii) seeking any other appropriate relief from the Canadian Court that Skillsoft Canada deems just and proper in the furtherance of the protection of the Debtors' estates.

3. This Court requests the aid and assistance of the Canadian Court to recognize these chapter 11 cases as a "foreign main proceeding" and Skillsoft Canada as a "foreign representative" pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order and any other orders for which recognition is sought.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB X

Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505

Docket #0079 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 5**

ORDER AUTHORIZING SKILLSOFT CANADA, LTD. TO ACT AS FOREIGN REPRESENTATIVE ON BEHALF OF THE DEBTORS' ESTATES PURSUANT TO 11 U.S.C. § 1505

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for an order pursuant to section 1505 of title 11 of the United States Code (the "**Bankruptcy Code**"), authorizing Skillsoft Canada, Ltd. ("**Skillsoft Canada**") to act as Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding, as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtor's corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted as set forth herein.

2. Skillsoft Canada is authorized, pursuant to section 1505 of the Bankruptcy Code, to act as the Foreign Representative on behalf of the Debtors' estates in the Canadian Recognition Proceeding. As Foreign Representative, Skillsoft Canada shall be authorized and have the power to act in any way permitted by applicable foreign law, including, but not limited to (i) seeking recognition of these chapter 11 cases and this Court's orders, including the DIP Order, in the Canadian Recognition Proceeding, (ii) requesting that the Canadian Court lend assistance to this Court in protecting the property of the Debtors' estates, and (iii) seeking any other appropriate relief from the Canadian Court that Skillsoft Canada deems just and proper in the furtherance of the protection of the Debtors' estates.

3. This Court requests the aid and assistance of the Canadian Court to recognize these chapter 11 cases as a "foreign main proceeding" and Skillsoft Canada as a "foreign representative" pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order and any other orders for which recognition is sought.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB Y

Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, the Debtors request, pursuant sections 105(a), 345, 363, 364, 503, and 507 of title 11 of the United States Code (the "**Bankruptcy Code**"), entry of interim and final orders (i) authorizing but not directing the Debtors to (a) continue using their existing

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cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank accounts at their existing banks consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue Ordinary Course Intercompany Transactions (as defined hereinafter) between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as described herein and otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief.

2. The Debtors further request that the Court authorize the Banks (as defined hereinafter) to (i) continue to maintain, service, and administer the Debtors' bank accounts, and (ii) debit the Debtors' bank accounts in the ordinary course of business on account of (a) electronic transfers (including wire transfers and book transfers) or checks drawn on the Debtors' bank accounts; *provided* that, any payments drawn, issued, or made before the date hereof (the "**Petition Date**") by the Debtors shall not be honored absent direction of the Debtors and a separate order of the Court authorizing such prepetition payment or (b) all amounts owed to the Banks for maintenance of the Debtors' bank accounts, including any bank fees, service charges and other fees, costs, charges, and expenses associated with the Debtors' bank accounts and the Cash Management System, whether arising before or after the Petition Date.

3. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B**

(the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

4. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

5. On the Petition Date, the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*

(the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Debtors' Cash Management System

11. The Company uses a Cash Management System consisting primarily of entity level operating accounts to collect and fund each entity's operations. The Cash Management System facilitates cash monitoring, forecasting, and reporting and enables the Company to maintain control over the administration of forty-five (45) bank accounts, fifteen (15) of which are held by the Debtors (collectively, the "**Debtor Bank Accounts**") and the remaining thirty (30) of which are held by certain Non-Debtor Affiliates (collectively, the "**Non-Debtor Bank Accounts**" and, together with the Debtor Bank Accounts and any other bank accounts the Company may open in the ordinary course of business, the "**Bank Accounts**"). As set forth below, the Debtor Bank Accounts are maintained by Bank of America, N.A. ("**BoA**"), Silicon Valley Bank, a subsidiary of SVB Financial Group ("**SV Bank**"), and Wells Fargo Bank, N.A. ("**Wells Fargo**" and, together with BoA, SV Bank, Wells Fargo, and any institution with which the Debtors may open new bank accounts within the ordinary course of business, the "**Banks**"), and the Non-Debtor Bank Accounts are maintained by BoA, Citibank, N.A. ("**CitiBank**"), Industrial and Commercial Bank of China (ICBC) ("**ICBC**"), and Sumitomo Mitsui Banking Corporation ("**Mitsuisumitomo**"). The Debtors' treasury and accounting departments, both located at the Company's headquarters in Nashua, New Hampshire, maintain daily oversight over the Cash Management System and implement cash management controls for entering, processing, and releasing funds.

12. The Cash Management System is similar to those commonly employed by businesses comparable in size and scale to the Debtors. Indeed, comparably sized businesses use integrated systems to help control funds, ensure cash availability for each entity, and reduce administrative expenses by facilitating the movement of funds among multiple entities. Any disruption of the Cash Management System would be materially detrimental to the Debtors' operations because their businesses require prompt access to cash and accurate cash tracking.

A. Bank Accounts and Flow of Funds

13. The Cash Management System is tailored to meet the Debtors' operating needs, thereby enabling the Debtors to control and monitor corporate funds, ensure cash availability and liquidity across the Debtors' global operations, comply with the requirements of their financing agreements, and reduce administrative expenses by facilitating the movement of funds and the development of accurate account balances.

1. Bank Accounts

(i) Debtor Bank Accounts

14. The Debtor Bank Accounts are held by the following Debtors: (i) four (4) Bank Accounts held by Skillsoft UK Ltd. ("**Skillsoft UK**"); (ii) two (2) Bank Accounts held by Skillsoft Ireland Ltd.; (iii) one (1) Bank Account held by Thirdforce Group Ltd.; (iv) two (2) Bank Accounts held by Skillsoft Canada Ltd.; (v) one (1) Bank Account held by Skillsoft Corporation; (vi) one (1) Bank Account held by Skillsoft Limited; (vii) three (3) Bank Accounts held by SumTotal Systems LLC; and (viii) one (1) Bank Account held by Pointwell Ltd.

15. The Bank Accounts are summarized as follows:

Accounts	Description of Debtor Bank Accounts
Operating Accounts Bank of America ****9979 ****4203 ****4104 ****1011 ****1029 ****3019 ****6034 ****1016 ****7017 ****7025 ****7033 ****7041	The Company maintain a series of operating accounts at certain Debtors which collect revenue and make necessary disbursements. Transfers between Debtors and/or non-Debtor Affiliates are accomplished through Intercompany Transactions (as defined hereinafter). The Operating Account ending 9979 for Skillsoft is held at Bank of America and is denominated in USD. The Operating Account ending 2703 for SumTotal Systems, LLC is held at Silicon Valley Bank and is denominated in USD. The Operating Account ending 4203 for Skillsoft Canada Ltd. is held at Bank of America and is denominated in CAD.

Accounts	Description of Debtor Bank Accounts
Silicon Valley Bank ****2703	The Operating Account ending 4104 for Skillsoft Canada Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 1011 for Skillsoft Ireland Limited is held at Bank of America and is denominated in EUR. The Operating Account ending 1029 for Skillsoft Ireland Limited is held at Bank of America and is denominated in USD. The Operating Account ending 3019 for Pointwell Limited is held at Bank of America and is denominated in USD. The Operating Account ending 6034 for Skillsoft Limited is held at Bank of America and is denominated in USD. This account has been segregated for the benefit of the Utility Providers as discussed in the *Motion of Debtors for Entry of Interim and Final Orders (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Service, and (IV) Granting Related Relief* filed contemporaneously herewith. The Operating Account ending 1016 for ThirdForce Group Limited is held at Bank of America and is denominated in EUR. The Operating Account ending 7017 for Skillsoft U.K. Limited is held at Bank of America and is denominated in GBP. The Operating Account ending 7025 for Skillsoft U.K. Limited is held at Bank of America and is denominated in GBP. The Operating Account ending 7033 for Skillsoft U.K. Limited is held at Bank of America and is denominated in EUR. The Operating Account ending 7041 for Skillsoft U.K. Limited is held at Bank of America and is denominated in USD.

Accounts	Description of Debtor Bank Accounts
Lockbox Accounts Wells Fargo ****4963 Silicon Valley Bank ****2718	SumTotal Systems, LLC maintains two Lockbox Accounts into which its customers remit payment on invoices. Each lockbox account is swept daily into SumTotal Systems, LLC's operating account. The Lockbox Account ending 4963 for SumTotal Systems, LLC is held at Wells Fargo and is denominated in USD. The Lockbox Account ending 2718 for SumTotal Systems, LLC is held at Silicon Valley Bank and is denominated in USD.

(ii) Non-Debtor Bank Accounts

16. The Non-Debtor Bank Accounts are held by the following Non-Debtor Affiliates: (i) one (1) Bank Account held by Mindleaders Ireland Learning Ltd.; (ii) two (2) Non-Debtor Bank Accounts held by Skillsoft NETg GmbH; (iii) two (2) Non-Debtor Bank Accounts held by Sumtotal Systems Canada Ltd.; (iv) two (2) Non-Debtor Bank Accounts held by Skillsoft France S.à r.l.; (v) one (1) Non-Debtor Bank Account held by Skillsoft Group France SAS; (vi) two (2) Non-Debtor Bank Account held by SumTotal Systems France SAS; (vii) one (1) Non-Debtor Bank Account held by Skillsoft Digital (France) SAS; (viii) one (1) Non-Debtor Bank Account held by SumTotal Systems ANZ Pty Ltd; (ix) three (3) Non-Debtor Bank Account held by SumTotal Systems UK Ltd.; (x) two (2) Non-Debtor Bank Accounts held by Skillsoft Asia Pacific Pty Ltd.; (xi) one (1) Non-Debtor Bank Account held by Skillsoft New Zealand Ltd.; (xii) two (2) Non-Debtor Bank Accounts held by Skillsoft Asia Pacific Pte Ltd.; (xiii) two (2) Non-Debtor Bank Accounts held by SumTotal Systems Japan; (xiv) two (2) Non-Debtor Bank Accounts held by Skillsoft Software Services India Pvt. Ltd.; (xv) two (2) Non-Debtor Bank Accounts held by SumTotal Systems India Pvt. Ltd.; (xvi) three (3) Non-Debtor Bank Accounts held by Skillsoft (China) Ltd; and (xvii) one (1) Non-Debtor Bank Account held by Element K India Pvt. Ltd.

17. The Non-Debtor Bank Accounts are summarized as follows:

Accounts	Description of Non-Debtor Bank Accounts
Operating Accounts Bank of America ****4010 ****3013 ****0018 ****4106 ****4205 ****1013 ****1021 ****8019 ****1014 ****1022 ****9018 ****3010 ****2019 ****2027 ****2035 ****3015 ****3023 ****1600 ****1011 ****1029 ****3012 ****7059 ****7067 Citibank ****5555 ****5555 Mitsuisumitomo ****7719 ****3415 Industrial and Commercial Bank of China ****1732 ****1821 ****2705	The Company maintain a series of operating accounts at certain Non-Debtor Affiliates which collect revenue and make necessary disbursements. Transfers between Debtors and/or Non-Debtors Affiliates are accomplished through Intercompany Transactions (as defined hereinafter). The Operating Account ending 4010 for MindLeaders Ireland Learning Limited is held at Bank of America and is denominated in EUR. The Operating Account ending 3013 for Skillsoft NETg GmbH is held at Bank of America and is denominated in EUR. The Operating Account ending 0018 for Skillsoft NETg GmbH is held at Bank of America and is denominated in CHF. The Operating Account ending 4106 for Sumtotal Systems Canada Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 4205 for Sumtotal Systems Canada Ltd. is held at Bank of America and denominated in CAD. The Operating Account ending 1013 for Skillsoft France S.à r.l. is held at Bank of America and is denominated in EUR. The Operating Account ending 1021 for Skillsoft France S.à r.l. is held at Bank of America and is denominated in USD. The Operating Account ending 8019 for Skillsoft Group France SAS is held at Bank of America and is denominated in EUR. The Operating Account ending 1014 for SumTotal Systems France SAS is held at Bank of America and is denominated in EUR. The Operating Account ending 1022 for SumTotal Systems France SAS is held at Bank of America and is denominated in USD. The Operating Account ending 9018 for Skillsoft Digital (France) SAS is held at Bank of America and is denominated in EUR. The Operating Account ending 3010 for SumTotal Systems ANZ Pty Ltd is held at Bank of America and is denominated in AUD. The Operating Account ending 2019 for SumTotal Systems UK Ltd. is held at Bank of America and is denominated in GBP.

Accounts	Description of Non-Debtor Bank Accounts
	The Operating Account ending 2027 for SumTotal Systems UK Ltd. is held at Bank of America and is denominated in EUR. The Operating Account ending 2035 for SumTotal Systems UK Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 3015 for Skillsoft Asia Pacific Pty Ltd. is held at Bank of America and is denominated in AUD. The Operating Account ending 3023 for Skillsoft Asia Pacific Pty Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 1600 for Skillsoft New Zealand Ltd. is held at Bank of America and is denominated in NZD. The Operating Account ending 1011 for Skillsoft Asia Pacific Pte Ltd. is held at Bank of America and is denominated in SGD. The Operating Account ending 1029 for Skillsoft Asia Pacific Pte Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 7719 for SumTotal Systems Japan is held at Mitsuisumitomo and is denominated in JPY. The Operating Account ending 3415 for SumTotal Systems Japan is held at Mitsuisumitomo and is denominated in JPY. The Operating Account ending 7059 for Skillsoft Software Services India Pvt. Ltd. is held at Bank of America and is denominated in INR. The Operating Account ending 7067 for Skillsoft Software Services India Pvt. Ltd. is held at Bank of America and is denominated in USD. The Operating Account ending 25555 for SumTotal Systems India Pvt. Ltd. is held at Citibank and is denominated in INR. The Operating Account ending 45555 for SumTotal Systems India Pvt. Ltd. is held at Citibank and is denominated in INR. The Operating Account ending 1732 for Skillsoft (China) Ltd is held at Industrial and Commercial Bank of China and is denominated in USD.

Accounts	Description of Non-Debtor Bank Accounts
	The Operating Account ending 1821 for Skillsoft (China) Ltd is held at Industrial and Commercial Bank of China and is denominated in USD. The Operating Account ending 2705 for Skillsoft (China) Ltd is held at Industrial and Commercial Bank of China and is denominated in RMB / CNY. The Operating Account ending 3012 for Element K India Pvt. Ltd. is held at Bank of America and is denominated in INR.

2. Description of Funds Processing

18. The following descriptions broadly set forth the manner in which cash is received and disbursed throughout the Cash Management System in the ordinary course of business.

- ***Receipts***: All receipts relating to each Debtor's business, with the exception of SumTotal Systems, LLC,[3] are deposited into the relevant Debtor's operating account.

- ***Disbursements***: Each Debtor makes all operational disbursements in the ordinary course of business from its own operational account(s).

19. Certain of the Debtors (the "**Originators**") are parties to receivables purchase agreements (together with all related documents, the "**AR Purchase Agreement**") with Non-Debtor Affiliate Skillsoft Receivables Financing LLC (the "**AR Borrower**"). Pursuant to the AR Purchase Agreement, the AR Borrower purchases accounts receivable (the "**Receivables**") from the Originators (and the related cash proceeds)[4] in exchange for cash borrowed by the AR Borrower pursuant to that certain *Credit Agreement* (as may be amended, restated, amended and

[3] As discussed above receipts with respect to SumTotal Systems LLC, are deposited into one of two lockbox accounts, which are swept to SumTotal Systems, LLC's operating account on a daily basis.

[4] The sale of such Receivables occur immediately and automatically upon the creation of the Receivables without further action of the AR Borrower or the Originator. Under the terms of the AR Facility and AR Purchase Agreement, the sales of the Receivables are intended to be "true sales" and absolute assignments of the Receivables.

restated, supplemented, or otherwise modified from time to time, the "**AR Facility Agreement**") by and between (i) the AR Borrower, as borrower; (ii) the lenders party thereto (collectively, the "**AR Facility Lenders**"); and (iii) CIT Bank, N.A., as administrative agent, collateral agent, and accounts bank (the "**AR Facility Agent**"). The AR Facility is secured by substantially all of the assets of the AR Borrower, including the Receivables and the cash proceeds therefrom. The Debtors do not guarantee the obligations under the AR Facility and the AR Facility Lenders do not have recourse to the Debtors except in limited circumstances relating to a breach by a Debtor Originator of certain representations or warranties made in respect of the Receivables sold by such Debtor Originator. The sale of the Receivables from the Originator to the AR Borrower provides the Originators with liquidity to fund operating disbursements and limits certain risks of non-collection associated with the Receivables.

20. Pursuant to the AR Facility and the AR Purchase Agreement, proceeds received from third parties on account of the Receivables are initially received by each Originator to be held in trust for the benefit of the AR Borrower. Although the cash proceeds from the Receivables are received by the Originators, the cash proceeds never become property of the Originators' bankruptcy estates. Within two (2) business days of receipt of cash proceeds, the applicable Originator must transfer any cash proceeds into a segregated trust account held by the AR Borrower and such funds are used to satisfy the AR Borrower's obligations under the AR Facility Agreement. The AR Facility Agreement will remain operative during the pendency of the Debtors' chapter 11 cases.

21. By this Motion, the Debtors request authority to continue their ordinary course cash management practices under the AR Facility Agreement and the AR Purchase Agreement, including, but not limited to, the sale of Receivables from the Originators to the AR

Borrower and subsequent remittance of the cash proceeds of such receivables to the AR Borrower consistent with the terms of the relevant agreements with the AR Borrower and past practices in the ordinary course of business.

3. Intercompany Transactions

22. As described in the First Day Declaration, the Company is a global enterprise with operations in North America, Europe, Asia, and Australia. As described above, the Company relies upon a system of standalone operational accounts at each entity that make both receipts and disbursements to support the individual entity's business operations. In certain instances, individual entities may receive transfers from other Debtor or Non-Debtor Affiliates for various reasons. In order to transfer funds between entities, the Debtors and Non-Debtor Affiliates rely upon intercompany transactions (the "**Intercompany Transactions**"). Although certain Debtors and Non-Debtor Affiliates generate revenue from third parties, many of the Debtors and Non-Debtor Affiliates rely in part or wholly on the Intercompany Transactions for business income and funds to cover operational and interest expenses. Accordingly, to support the Debtors' business and global footprint, the Debtors engage in certain intercompany financial transactions with each other and with Non-Debtor Affiliates in the ordinary course of business.

23. As a result of the Intercompany Transactions, there may be claims owing between two (2) Debtors or between a Debtor and a Non-Debtor Affiliate at any given time. Historically, the Company's Intercompany Transactions may be broadly broken down into four (4) separate categories: (i) balances generated by provision of intellectual property or research and development services between affiliates ("**Transfer Pricing**"); (ii) cash transfers to fund operating, interest, and other business expenses at the receiving entity ("**Current Transfers**" together with Transfer Pricing "**Ordinary Course Intercompany Transactions**"); (iii) intercompany notes issued in connection with acquisition and refinancing opportunities

("**Notes**"); and (iv) legacy balances generated prior to 2012 for which transactions were not segregated and balances between affiliates are not readily available ("**Permanent Transfers**").

24. Each Intercompany Transaction results in an accompanying bookkeeping entry reflecting a claim for the amounts owed to or by each Debtor or Non-Debtor Affiliate (each such claim, an "**Intercompany Claim**"), and is an essential component of the Cash Management System. The Debtors maintain, and will continue to maintain, records of these transfers of cash and bookkeeping entries on a postpetition basis, and can ascertain, trace, and account for the Intercompany Transactions.

25. By this Motion, the Debtors request authority to continue entering into Ordinary Course Intercompany Transactions, which are discussed in greater detail below, including between the Debtors and Non-Debtor Affiliates. The Debtors have implemented internal mechanisms that will permit them, with the assistance of their advisors, to track all postpetition Intercompany Transactions accurately. The Debtors also request authority to continue any netting or setoff practices following the Petition Date on an ordinary course basis.[5] Furthermore, to ensure that each Debtor will not fund the operations of another entity at the expense of such Debtors' creditors, the Debtors respectfully request: (i) pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, that all valid postpetition Intercompany Claims owed to a Debtor or Non-Debtor Affiliate on account of an Intercompany Transaction with another Debtor be afforded administrative expense status, subject and junior to the claims, including adequate protection claims, granted in connection with any postpetition financing in accordance with any interim and final orders, as applicable, approving such postpetition financing; and (ii) unless prohibited by

[5] For the avoidance of doubt, the Debtors do not seek authority to net or setoff any amount owed on account of a prepetition Intercompany Transaction against any postpetition Intercompany Transaction.

applicable law, that postpetition transfers made by a Debtor to a Non-Debtor Affiliate pursuant to an Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that any postpetition transfers by a Non-Debtor Affiliate to a Debtor will reduce the postpetition claim such Debtor has against the Non-Debtor Affiliate.

(i) Transfer Pricing

26. In the ordinary course of business, the Company uses Transfer Pricing to compensate Debtors and Non-Debtor Affiliates for providing, among other things, (i) intellectual property rights; (ii) research and development services; and (iii) management and administrative services. To maximize efficiency, preserve liquidity and minimize overhead, the Company utilizes Transfer Pricing to allow certain of the Company's entities to provide certain services to other affiliates at a market-rate in the ordinary course of business. The Debtors typically charge approximately $14.7 million per month to other Debtor entities and approximately $2.7 million per month to Non-Debtor Affiliates in Transfer Pricing. Non-Debtor Affiliates charge approximately $1.8 million per month to Debtor entities in Transfer Pricing. A brief description of the various types of Transfer Pricing is set forth below:

27. Skillsoft Ireland Limited and SumTotal Systems, LLC own the majority of the Company's intellectual property. These entities license intellectual property to regional distributor entities such as Skillsoft France S.à r.l. and SumTotal Systems Canada Limited in exchange for royalty payments pursuant to distribution agreements. The intellectual property is then used by the distributor entities to market the Company's learning management system software and other products to customers across the globe. The Debtors typically charge approximately $11.0 million per month to other Debtor entities and approximately $2.7 million per month to Non-Debtor Affiliates in Transfer Pricing attributable to intellectual property and

related royalties. Non-Debtor Affiliates charge approximately $0.1 million per month to Debtor entities in Transfer Pricing attributable to intellectual property and related royalties.

28. Similarly, the Company is continually seeking to maintain its competitive market position and award-winning corporate learning and talent development solutions while developing new solutions, services, and products for customers across the globe. Specifically, the Company's software, technology, and content development efforts are focused on, among other things, (i) content and courseware, (ii) courseware authoring tools, (iii) talent development applications, (iv) learning management systems, and (v) learning experience platforms. To that end, certain of the Company's entities (including both Debtors and Non-Debtor Affiliates) perform software, technology, and content development activities to deliver innovative learning and talent development solutions for the benefit of the entire Company (the "**R&D Entities**"). In exchange for these services, the beneficiary of these services (typically Skillsoft Ireland Limited or SumTotal Systems, LLC) pays certain Transfer Pricing charges (typically at cost plus a margin) to the R&D Entities pursuant to a research and development services agreement. The Debtors typically charge approximately $1.8 million per month to other Debtor entities in Transfer Pricing attributable to research and development services. Non-Debtor Affiliates charge approximately $1.7 million per month to Debtor entities in Transfer Pricing attributable to research and development services.

29. Skillsoft Ireland Limited is responsible for directing the Company's key strategic business decisions including, among other things, (i) approving key investments in technology platforms; (ii) establishing and monitoring financial goals; and (iii) evaluating and approving acquisitions. Given the size of the U.S. market, Skillsoft employs certain management level executives who play a key role in this process. Similarly, Skillsoft provides global and regional administrative support to the Company on Skillsoft Ireland Limited's behalf including,

among other things, finance, human resources, legal, and IT services. Skillsoft charges approximately $1.9 million per month to Skillsoft Ireland Limited. Such payment remunerates Skillsoft for costs associated with these activities plus an arm's length markup.

30. All Transfer Pricing is made in the ordinary course of the Company's business pursuant to contracts between each of the Company's relevant entities. The Company regularly monitors the terms of Transfer Pricing contracts and ensures the terms of such contracts are consistent with comparable companies and market rates. Each Transfer Pricing payment is for a service the Company requires to operate that cannot be practically or economically replaced by a third party. Similarly, the market for third parties to pay the Company for services provided under such contracts would be effectively non-existent due to restrictions on use of intellectual property and/or lack of distribution networks.

(ii) Current Transfers

31. In the ordinary course of business, the Company uses Current Transfers to (i) move cash from Debtor and Non-Debtor Affiliate entities with a cash surplus to entities that require cash in order to fund operational needs such as payroll, accounts payable, and taxes and (ii) to provide Debtors with compensation for certain services purchased on behalf of the entire Company for which there is no Transfer Pricing.[6]

32. Current Transfers are initiated by the treasury and accounting departments at Skillsoft or Skillsoft Ireland Limited (the "**Directing Entities**"). The Directing Entities monitor the liquidity of all Debtors and Non-Debtors Affiliates. Upon identification of a Debtor or Non-

[6] For example: Skillsoft purchases internet on behalf of the entire Company from CenturyLink Communications and Skillsoft Ireland Limited purchases monthly payroll services for certain affiliates. In each case, Current Transfers are used to ensure Skillsoft and Skillsoft Ireland Limited, respectively, are properly compensated for provision of such services.

Debtor Affiliate that requires liquidity (the "**Current Transferee**"), the Directing Entities work to identify a Debtor or Non-Debtor Affiliate with a surplus of cash in the same denomination sufficient to fill the Current Transferee's liquidity need (the "**Current Transferor**"). Upon confirmation of the Current Transferee, the Current Transferor, and the quantum of the Current Transfer, the Current Transfer is recorded in the books and records of the Current Transferee and Current Transferor, a signed intercompany form is scanned to the Directing Entities, and the Current Transfer effectuated.

33. Current Transfers are necessary to allow the Company the flexibility to address unforeseen operational costs and ensure proper allocation of expenses across the corporate structure. Without Current Transfers, the enterprise value of the Company as a whole could fall as a result of wholly preventable operational shortfalls at entities with temporal cash needs. Due to the variable nature of Current Transfers, the amount of Current Transfers fluctuates seasonally and based upon the performance of various entities. Prior to the Petition Date, on average the Debtors transferred approximately $5 million per month among Debtors and $315,000 per month to Non-Debtor Affiliates in Current Transfers. The estimate excludes transfers made to fund debt service payments.

4. Existing Business Forms and Books and Records

34. The Debtors use a variety of preprinted business forms, including checks, letterhead, correspondence forms, invoices, and other business forms in the ordinary course of business (collectively, and as they may be modified from time to time, the "**Business Forms**"). The Debtors also maintain books and records to document their financial results and a wide array of necessary operating information (collectively, the "**Books and Records**"). To avoid a significant disruption to their business operations that would result from a disruption of the Cash Management System, and to avoid unnecessary expense, the Debtors request authority to continue

using all Business Forms and Books and Records in use immediately before the Petition Date, including with respect to the Debtors' ability to update authorized signatories and services, as needed—without reference to the Debtors' status as chapter 11 debtors in possession—rather than requiring the Debtors to incur the expense and delay of ordering or printing new Business Forms and creating new Books and Records; *provided, however*, that, with respect to checks that the Debtors print themselves, the Debtors will include the "Debtor in Possession" legend on those checks within ten (10) business days after the date of entry of the Proposed Interim Order.

5. Bank Fees

35. The Debtors incur periodic service charges and other fees in connection with the maintenance of the Debtors' Bank Accounts (the "**Bank Fees**"). The Bank Fees are paid monthly and are automatically deducted from the Bank Accounts as they are assessed by their respective Banks. As of the Petition Date, the Debtors believe that approximately $16,362 of prepetition Bank Fees are outstanding, and $16,362 are or will become due and payable during the interim period.

Relief Requested Should Be Granted

A. Continuing to Participate in Cash Management System Is in the Best Interests of the Debtors, their Creditors, and Other Parties in Interest

36. The Debtors request authority to continue using the Cash Management System in the same manner as before the Petition Date and to implement ordinary course changes to the Cash Management System consistent with past practices. Such relief is appropriate under sections 363(c) and 105(a) of the Bankruptcy Code.

37. Section 363(c)(1) of the Bankruptcy Code authorizes a debtor to "use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1). The purpose of this section is to provide a debtor with the flexibility to engage in the

ordinary course transactions required to operate its business without unneeded oversight by its creditors or the court. *See In re Roth Am., Inc.*, 975 F.2d 949, 952 (3d Cir. 1992) ("Section 363 is designed to strike [a] balance, allowing a business to continue its daily operations without excessive court or creditor oversight and protecting secured creditors and others from dissipation of the estate's assets.") (citations omitted) (alteration in orginal); *In re Vision Metals, Inc.*, 325 B.R. 138, 145 (Bankr. D. Del. 2005) (same). Included within the purview of section 363(c) of the Bankruptcy Code is a debtor's ability to continue "routine transactions" necessitated by a debtor's cash management system. *See, e.g., In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007) (noting that courts have shown a reluctance to interfere in a debtor's making of routine, day-to-day business decisions) (citations omitted); *In re Vision Metals*, 325 B.R. at 142 ("[W]hen a chapter 11 debtor in possession continues to operate its business, as permitted by section 1108, no court authorization is necessary for the debtor to enter transactions that fall within the ordinary course of its business.").

38. Additionally, the Court may rely on its equitable powers to grant the relief requested herein. Specifically, section 105(a) of the Bankruptcy Code authorizes the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Under section 105(a) and the doctrine of necessity, the Court may exercise its broad grant of equitable powers to approve this Motion, including the payment of prepetition obligations when such payment is essential to the continued operation of a debtor's business. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for the payment of prepetition claims under the doctrine of necessity and noting that "[t]he Supreme Court, the Third Circuit and the District of Delaware all recognize the court's power to authorize payment of pre-petition claims

when such payment is necessary for the debtor's survival during chapter 11"). Therefore, it is within the Court's equitable power under section 105(a) to approve the continued use of the Cash Management System.

39. The Cash Management System constitutes an ordinary-course and essential business practice providing significant benefits to the Debtors, including the ability to control corporate funds, ensure the maximum availability of funds when and where necessary, reduce borrowing costs and administrative expenses by facilitating the movement of funds, and ensure the availability of timely and accurate account balance information consistent with prepetition practices. The use of the Cash Management System has historically reduced the Debtors' expenses by enabling them to use funds in an optimal and efficient manner. Accordingly, the continued use of the Cash Management System without interruption is vital to the Debtors' business operations and the success of these chapter 11 cases.

40. The AR Purchase Agreement constitutes an ordinary-course and essential business practice providing significant benefits to the Debtors, including access to liquidity, limitation to risk exposure, and, accordingly, an increased level of certainty in cash flow forecasting and reduced need for cash reserves. Without authorization to continue performance under the terms of the AR Purchase Agreement, the Debtors would be forced to increase the size of the DIP Facility to cover liquidity needs and account for risk of Receivables non-payment, which would result in a diminution of value of Debtors' estates compared to continued performance under the AR Purchase Agreement.

41. In furtherance of the foregoing, the Debtors request that all Banks at which the Bank Accounts are maintained be authorized to continue administering such accounts as they were maintained prepetition, without interruption, and in the ordinary course of business. The

Banks should also be authorized to pay any and all drafts, wires, and ACH transfers issued on the Bank Accounts for payment of any claims arising on or after the Petition Date, or before the Petition Date to the extent such claims were approved by an order of the Bankruptcy Court, in each case so long as sufficient funds exist in the relevant accounts.

42. For the foregoing reasons, continuation of the Cash Management System is necessary, appropriate, and in the best interests of the Debtors, their estates, and all other parties in interest in these chapter 11 cases and should be authorized pursuant to sections 363(c)(1) and 105(a) of the Bankruptcy Code.

B. Continued Performance of Ordinary Course Intercompany Transactions Is Warranted and Postpetition Intercompany Claims Should Be Granted Administrative Expense Priority

43. As stated above, the Debtors routinely engaged in Ordinary Course Intercompany Transactions before the Petition Date. In this regard, section 363(c)(1) of the Bankruptcy Code authorizes a debtor to "enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business . . . and [] use property of the estate in the ordinary course of business without notice or a hearing." Additionally, under section 503(b)(1)(A) of the Bankruptcy Code, "[a]fter notice and a hearing, there shall be allowed administrative expenses . . . including—the actual, necessary costs and expenses of preserving the estate . . . ."

44. The Debtors believe that they do not require the Court's approval to continue entering into and performing under Ordinary Course Intercompany Transactions because such transactions are in the ordinary course of business within the meaning of section 363(c)(1) of the Bankruptcy Code. The Ordinary Couse Intercompany Transactions are routine not only for the Debtors' business, but also common among many business enterprises that operate through multiple affiliates. Precisely because of their routine nature, the Ordinary Course Intercompany Transactions are integral to the Debtors' ability to continue operating without disruption.

Accordingly, out of an abundance of caution, the Debtors request express authority to engage in such transactions postpetition. The Debtors also request that the Court grant administrative expense status to all claims against a Debtor by another Debtor or Non-Debtor Affiliate for all postpetition Ordinary Course Intercompany Claims, subject and junior in all respects to any superpriority claims, including adequate protection claims, granted pursuant to any subsequent order of the Court. If Intercompany Claims are afforded such status, each Debtor using funds flowing through the Cash Management System will continue bearing the ultimate responsibility for its ordinary-course transactions with Debtor and Non-Debtor Affiliates.

45. Continuing the Ordinary Course Intercompany Transactions is in the best interests of the Debtors and estates, and is warranted under the circumstances. First, the Debtors are able to account for all Ordinary Course Intercompany Transactions. The Debtors track all transfers in the Company's accounting system and have the ability to identify and account for all Intercompany Transactions, including all cash receipts and disbursements.

46. Second, the Ordinary Course Intercompany Transactions between the Debtors and Non-Debtor Affiliates are necessary to prevent unnecessary disruption to the Debtors' businesses. As noted above, the Debtors rely upon Ordinary Course Intercompany Transactions to provide for the necessary flow of intellectual property, funding of research and development, administration, and cash needs of their businesses. Specifically, the Transfer Pricing payments (including those Transfer Pricing Payments to Non-Debtor Affiliates) are critical to allow the Debtors to continue operating their business in the ordinary course without any disruption. Transfer Pricing ensures that entities holding intellectual property and performing research are adequately funded and that sales entities have access to the technology they need. Moreover, Transfer Pricing is carefully monitored to ensure it reflects the value of the materials and services

being conveyed. Similarly, Current Transfers provide Company entities access to capital to address unexpected cash shortfalls that occur seasonally and in the ordinary course of business. Together, these systems increase the operational efficiency and enterprise value of the Company as a whole.

47. Without the authority to continue entering into Ordinary Course Intercompany Transactions, the Debtors would be unable to operate their business because they would lose access to the intercompany services that the Transfer Pricing supports and access to liquidity provided by Current Transfers. Sales entities would lose access to intellectual property, research and development entities would lose funding, and the Company would lose management and administrative support capabilities across branches. Additionally, certain of the Company's entities would be exposed to liquidity shortfalls related to unexpected disbursements or delays in receivables. Even if these services could be replaced, such replication would take time and money and would result in no better terms than those provided by Ordinary Course Intercompany Transactions. Furthermore, because the Debtors hold all of the equity in each Non-Debtor Affiliate, ensuring that the Non-Debtor Affiliates' business remains uninterrupted during these chapter 11 cases—including through the continuation of Intercompany Transactions—will inure to the benefit of the Debtors' estates. Non-Debtor Affiliates will continue satisfying obligations throughout these chapter 11 cases such as the payment of payroll and payroll taxes for Non-Debtor Affiliates' employees.

48. For the reasons set forth herein, continuing the Ordinary Course Intercompany Transactions is in the best interests of the Debtors, their estates, and parties in interest.

C. The Court Should Authorize the Debtors to Pay Bank Fees and Similar Service Charges

49. The Debtors typically pay approximately $16,362 per month in Bank Fees and similar service charges. Paying the Bank Fees is in the best interests of the Debtors and parties in interest in these cases because it will prevent any disruption to the Cash Management System. Furthermore, as the Banks have a right to setoff for Bank Fees owing payment of prepetition Bank Fees should not alter the rights of unsecured creditors in the chapter 11 cases. Accordingly, by this Motion, the Debtors seek authority, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code to pay any outstanding prepetition Bank Fees to maintain the Cash Management System, and to continue paying postpetition Bank Fees in the ordinary course.

D. Maintenance of Existing Bank Accounts and Business Forms Is Warranted

50. Volume 7 of the *United States Trustee Program Policy and Practices Manual*, dated October 2011 (the "**UST Operating Guidelines**") generally requires that a chapter 11 debtor, among other things: (i) establish one debtor in possession account for all estate monies required for the payment of taxes (including payroll taxes); (ii) close all existing bank accounts and open new debtor in possession accounts with an authorized depository that agrees with the requirements of the Office of the U.S. Trustee for the District of Delaware (the "**U.S. Trustee**"); (iii) maintain a separate debtor in possession account for cash collateral; and (iv) obtain checks that bear the designation "Debtor in Possession." *See* UST Operating Guidelines § 7-1. Moreover, Local Rule 2015-2(a) generally requires that a chapter 11 debtor that runs out of checks must order new checks labeled "Debtor in Possession" with the corresponding bankruptcy number.

51. All of the Debtor Bank Accounts are held at Banks that are designated as authorized depositories in accordance with the U.S. Trustee's guidelines. Furthermore, if the Debtors were required to open new debtor in possession accounts and modify the Cash

Management System accordingly, the Debtors would be forced to reconstruct the Cash Management System in its entirety, which would prove unnecessarily cumbersome during a critical time for the Company. The Debtors' treasury department, including accounting and bookkeeping employees, would need to focus their efforts on immediately opening new bank accounts and working to establish controls for cash to flow properly, thereby diverting their attention from stabilizing their operations and their daily responsibilities, all of which would have a negative impact on the Debtors' ability to operate their business.

52. The Debtors should also be permitted to maintain their existing Business Forms. The Debtors issue manual checks from time to time and use a variety of Business Forms in the ordinary course of their business. Strict compliance with the UST Operating Guidelines and Local Rule 2015-2(a) would increase the Debtors' expenses and would risk unnecessarily confusing the Debtors' customers, suppliers, and employees. Accordingly, the Debtors believe it is appropriate to continue to use all Business Forms as such forms were in existence before the Petition Date. Furthermore, in light of the expense and delay attendant to ordering entirely new business forms, the Debtors believe it is appropriate to use their existing Business Forms without any reference to the Debtors' current status as debtors in possession subject to Local Rule 2015-2(b). However, for checks that the Debtors print or issue themselves, the Debtors will use reasonable efforts to begin printing the "Debtor in Possession" legend and the bankruptcy case number on those checks within ten business days of the entry of the Proposed Interim Order.

53. In short, any benefits of the Debtors' strict compliance with the UST Operating Guidelines or Local Rule 2015-2(a) would be far outweighed by the resulting expense, inefficiencies, and disruption to the Debtors' businesses. Accordingly, the Debtors request

authority to maintain the Debtor Bank Accounts and their Business Forms during these chapter 11 cases.

E. Extension of Time to Comply with Section 345(b) of the Bankruptcy Code Is Warranted to the Extent Such Requirements Are Not Met

54. All of the Debtor Bank Accounts comply with Section 345(b) of the Bankruptcy Code because all Debtor Bank Accounts are maintained at authorized depositories under the UST Operating Guidelines (BoA, SV Bank, and Wells Fargo).

55. However, if the Court determines that the Debtor Bank Accounts are not in compliance with section 345(b), the Debtors seek by this Motion a forty five (45) day extension of the time (or such additional time as the U.S. Trustee may agree to) to comply with section 345(b) of the Bankruptcy Code, without prejudice to the Debtors' ability to seek a further extension or final waiver of those requirements. During the extension period, the Debtors propose to engage the U.S. Trustee in discussions to determine what modifications to the Cash Management System, if any, would be appropriate under the circumstances.

56. Section 345(a) of the Bankruptcy Code governs a debtor's deposit and investment of cash during its chapter 11 case and authorizes such deposits or investments as "will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment." For deposits or investments that are not "insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States," section 345(b) of the Bankruptcy Code requires that a debtor obtain from the "entity with which such money is deposited or invested—a bond—in favor of the United States [that is] secured by the undertaking of a[n adequate] corporate surety . . . unless the court for cause orders otherwise."

57. In chapter 11 cases such as these, strict adherence to the requirements of section 345(b) of the Bankruptcy Code would be inconsistent with the value-maximizing purpose of chapter 11 by unduly hampering a debtor's ability under section 345(a) to invest money such "as will yield the maximum reasonable net return on such money." As a result, in 1994, to avoid "needlessly handcuff[ing] larger, more sophisticated debtors," Congress amended section 345(b) to provide that its strict investment requirements may be waived or modified if the court so orders "for cause." 140 Cong. Rec. H. 10,767 (Oct. 4, 1994).

58. The Debtors satisfy the requirements necessary to obtain an extension of time to comply with section 345(b) of the Bankruptcy Code. With respect to procedural requirements, Local Rule 2015–2(b) provides that:

> no waiver of the investment requirements of 11 U.S.C. § 345 shall be granted by the Court without notice and an opportunity for hearing in accordance with these Local Rules. However, if a motion for such a waiver is filed on the first day of a chapter 11 case in which there are more than 200 creditors, or otherwise for cause shown, the Court may grant an interim waiver until a hearing on the debtor's motion can be held.

59. Here, the Debtors have filed this Motion on the first day of their chapter 11 cases. The Debtors have more than 200 creditors and therefore cause exists to grant the interim waiver requested herein. Accordingly, the Debtors' present request for an extension of time to comply with section 345(b) of the Bankruptcy Code is warranted.

Reservation of Rights

60. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement,

contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

61. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, and in the First Day Declaration, the relief requested is necessary for the Debtors to operate their business in the ordinary course and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 6004(a) and (h)

62. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

63. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq., and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, (Attn: Yushan Ng, Esq. and Sarah Levin, Esq.) and 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq., and Sarah Levin, Esq.)); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) the Securities and Exchange Commission; (xi) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xii) the Banks (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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Proposed Attorneys for Debtors
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Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing, but not directing, the Debtors to (a) continue using their existing cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank account (the "**Bank Accounts**") at their existing bank (the "**Banks**") consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Intercompany Transactions between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as set forth herein but otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse cash in accordance with the Cash Management System and Ordinary Course Intercompany Transactions, except as otherwise set forth herein; and to make ordinary course changes to their Cash Management System, provided that such changes do not have a material adverse effect on the Debtors' estates.

3. The Debtors in their capacity as Originators are authorized, but not directed to continue complying with the terms of the AR Facility Agreement and the AR Purchase Agreement in the ordinary course of business.

4. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Interim Order), the Business Forms, as well as checks and other documents related to the Debtor Bank Accounts existing immediately before the Petition Date; *provided* that once the Debtors' existing Business Forms, checks, and other related documents have been used, the Debtors shall use reasonable efforts, when reordering checks or reprinting Business Forms or other related documents, to require the designation "Debtor in Possession" and the corresponding bankruptcy case number on such checks, Business Forms, and related documents; *provided further* that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend and the bankruptcy case number on such items within 10 business days of the date of entry of this Interim Order.

5. Notwithstanding anything to the contrary in the U.S. Trustee Operating Guidelines, the Debtors are further authorized to: (i) designate, maintain and continue to use any

or all of their existing Debtor Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including through checks, wire transfers, ACH transfers, and other debits in the ordinary course and in a manner consistent with prepetition practices; (iii) pay any Bank Fees or other charges associated with the Debtor Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (iv) treat their prepetition Debtor Bank Accounts for all purposes as debtor in possession accounts.

6. The Debtors are authorized, subject to the reasonable consent of Required DIP Lenders (as defined in the DIP Orders (defined below)), to open new bank accounts and enter into any ancillary agreements, including new deposit account control agreements, related to the foregoing; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Debtor Bank Account as if it had been listed on **Appendix 1** to this Interim Order under the heading "Debtor Bank Accounts"; *provided further* that such opening of an account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within ten (10) business days to the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the administrative agent for the Debtors' prepetition and proposed postpetition financing lenders; and *provided further* that the Debtors shall only open any such new Debtor Bank Account at a bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement.

7. Each Bank is authorized to accept and rely upon, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated before, on, or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of this Court (but such check, draft, wire, or other transfer shall only be honored to the extent of available funds). No Bank shall incur any liability for relying upon any Debtor's instruction as to which checks, drafts, wires, or ACH transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire, or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Debtor Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue, and payee information, those checks that are to be dishonored by such Bank (the "**List of Checks to be Dishonored**"), which checks may include those issued after the Petition Date as well as those issued before the Petition Date that are not to be honored or paid according to any order of this Court, and each Bank may honor all other checks. Except for those checks, drafts, wires, or ACH transfers that are authorized or required to be honored under an order of this Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Debtor Bank Account before the Petition Date but presented to such Bank for payment after the Petition Date. The Debtors shall include on the List of Checks to be Dishonored: (i) all pre-petition checks, drafts or other payment item issued on a Debtor Bank Account before the Petition Date that remain outstanding as of the Petition Date, other than those authorized or required to be honored under an order of this Court and (ii) all postpetition checks paying

prepetition obligations, other than those that are authorized or required to be honored under an order of this Court.

8. Nothing contained herein shall prevent the Debtors from closing any Debtor Bank Accounts as they may deem necessary and appropriate, if consistent with the terms of any postpetition financing agreements and any orders of this Court relating thereto. Any relevant Bank is further authorized to honor the Debtors' requests to close such Debtor Bank Accounts, and the Debtors shall give notice of the closure of any account within ten (10) business days to the U.S. Trustee, counsel to any statutory committee appointed in these chapter 11 cases and counsel to the DIP Lenders (as defined in the DIP Orders).

9. For all Banks at which the Debtors maintain Debtor Bank Accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen (15) business days of the date of entry of this Interim Order, the Debtors shall (i) contact each such Bank, (ii) provide each such Bank with each of the Debtors' employee identification numbers, and (iii) identify each of their Debtor Bank Accounts held at such Banks as being held by a debtor in possession in a chapter 11 case.

10. For Banks that are not a party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors shall use their good faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the Office of the United States Trustee within forty five (45) days of the date of entry of this Order.

11. The Debtors are authorized, but not directed, to continue engaging in Ordinary Course Intercompany Transactions in connection with the Cash Management System in the ordinary course of business (including with respect to netting or setoffs permitted by section 553 of the Bankruptcy Code), but subject to the terms of the Debtors' DIP Credit

Agreement (as defined in the DIP Orders); *provided, however*, that before the final order on this Motion, transfers from the Debtors to Non-Debtor Affiliates shall not exceed $2 million.

12. The Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (i) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (ii) prohibited or restricted by the terms of the DIP Orders. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid net postpetition Intercompany Transactions made in the ordinary course between Debtors shall be accorded administrative expense status, junior to any adequate protection claims granted under the DIP Orders.

13. Unless prohibited by applicable law, transfers made by a Debtor to a Non-Debtor Affiliate pursuant to a postpetition Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that any transfers by a Non-Debtor Affiliate to a Debtor will reduce the claim against the Non-Debtor Affiliate and any such transfer shall be subject to the terms of the DIP Credit Agreement.

14. The Debtors shall maintain accurate and detailed records of all transactions and transfers, including Intercompany Transactions, within the Cash Management System, so that all postpetition transfers and transactions are readily ascertainable, traceable, recorded properly, and distinguished between prepetition and postpetition transactions.

15. The Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, and charge back returned items, whether such items were deposited prepetition or postpetition, to the Debtor Bank Accounts in the ordinary course. Any such

postpetition fees, costs, charges, and expenses, including the Bank Fees, or charge-backs are not so paid shall be entitled to priority as administrative expense pursuant to section 503(b)(1) of the Bankruptcy Code.

16. The Debtors shall have forty-five (45) calendar days (or such additional time as the U.S. Trustee may agree to) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

17. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; (iii) the Budget (as defined in the DIP Orders); and (iv) the terms

and conditions set forth in the Restructuring Support Agreement. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

19. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

20. Notwithstanding entry of this Interim Order, nothing herein shall (a) create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party or (b) alter or impair the validity, continuation, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

22. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

23. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

24. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington,

Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **[●], 2020 at 4:00 p.m. (prevailing Eastern Time)**.

25. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

26. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (XXXX)	Account Type
Debtor Bank Accounts				
1	Skillsoft Corporation	Bank of America	XXXX9979	Operating
2	SumTotal Systems LLC	Silicon Valley Bank	XXXX2718	Lockbox
3	SumTotal Systems LLC	Wells Fargo Bank	XXXX4963	Lockbox
4	SumTotal Systems LLC	Silicon Valley Bank	XXXX2703	Operating
5	Skillsoft Canada Limited	Bank of America	XXXX4203	Operating
6	Skillsoft Canada Limited	Bank of America	XXXX4104	Operating
7	Skillsoft Limited	Bank of America	XXXX6034	Operating
8	Pointwell Limited	Bank of America	XXXX3019	Operating
9	Skillsoft Ireland Limited	Bank of America	XXXX1011	Operating
10	Skillsoft Ireland Limited	Bank of America	XXXX1029	Operating
11	Thirdforce Group Limited	Bank of America	XXXX1016	Operating
12	Skillsoft U.K. Limited	Bank of America	XXXX7017	Operating
13	Skillsoft U.K. Limited	Bank of America	XXXX7025	Operating
14	Skillsoft U.K. Limited	Bank of America	XXXX7033	Operating
15	Skillsoft U.K. Limited	Bank of America	XXXX7041	Operating
Non-Debtor Bank Accounts				
1	MindLeaders Ireland Learning Limited	Bank of America	XXXX4010	Operating
2	Skillsoft NETg GmbH	Bank of America	XXXX3013	Operating
3	Skillsoft NETg GmbH	Bank of America	XXXX0018	Operating
4	Skillsoft France SARL	Bank of America	XXXX1013	Operating

5	Skillsoft France SARL	Bank of America	XXXX1021	Operating
6	Skillsoft Group France SAS	Bank of America	XXXX8019	Operating
7	SumTotal Systems France SAS	Bank of America	XXXX1014	Operating
8	SumTotal Systems France SAS	Bank of America	XXXX1022	Operating
9	Skillsoft Digital (France) SAS	Bank of America	XXXX9018	Operating
10	SumTotal Systems Canada Limited	Bank of America	XXXX4106	Operating
11	SumTotal Systems Canada Limited	Bank of America	XXXX4205	Operating
12	SumTotal Systems U.K. Limited	Bank of America	XXXX2019	Operating
13	SumTotal Systems U.K. Limited	Bank of America	XXXX2035	Operating
14	SumTotal Systems U.K. Limited	Bank of America	XXXX2027	Operating
15	SumTotal Systems ANZ Pty. Ltd	Bank of America	XXXX3010	Operating
16	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3015	Operating
17	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3023	Operating
18	SumTotal Systems India Private Limited	CitiBank	XXXX25555	Operating
19	SumTotal Systems India Private Limited	CitiBank	XXXX45555	Operating
20	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1011	Operating
21	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1029	Operating
22	SumTotal Systems Japan	Mitsuisumitomo	XXXX7719	Operating
23	SumTotal Systems Japan	Mitsuisumitomo	XXXX3415	Operating
24	Skillsoft Software Services India Private Limited	Bank of America	XXXX7059	Operating
25	Skillsoft Software Services India Private Limited	Bank of America	XXXX7067	Operating

26	Skillsoft New Zealand Limited	Bank of America	XXXX1600	Operating
27	Element K India Private Limited	Bank of America	XXXX3012	Operating
28	Skillsoft (China) Ltd.	ICBC	XXXX1732	Operating
29	Skillsoft (China) Ltd.	ICBC	XXXX1821	Operating
30	Skillsoft (China) Ltd.	ICBC	XXXX2705	Operating

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing, but not directing, the Debtors to (a) continue using their existing cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank account (the "**Bank Accounts**") at their existing bank (the "**Banks**") consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue Intercompany

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Transactions between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as set forth herein but otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis (the "**Hearing**"), if necessary; and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse

cash in accordance with the Cash Management System, including through the sale and subsequent service and remittance of receivables to Skillsoft Receivables Financing LLC by Originators and Ordinary Course Intercompany Transactions, except as otherwise set forth herein; and to make ordinary course changes to their Cash Management System, provided that such changes do not have a material adverse effect on the Debtors' estates.

3. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Final Order), the Business Forms, as well as checks and other documents related to the Debtor Bank Accounts existing immediately before the Petition Date; *provided* that once the Debtors' existing Business Forms, checks, and other related documents have been used, the Debtors shall use reasonable efforts, when reordering checks or reprinting Business Forms or other related documents, to require the designation "Debtor in Possession" and the corresponding bankruptcy case number on such checks, Business Forms, and related documents; *provided further* that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend and the bankruptcy case number on such items within ten (10) business days of the date of entry of the Interim Order.

4. Notwithstanding anything to the contrary in the U.S. Trustee Operating Guidelines, the Debtors are further authorized to: (i) designate, maintain and continue to use any or all of their existing Debtor Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including, through checks, wire transfers, ACH transfers, and other debits in the ordinary course and in a manner consistent with prepetition practices; (iii) pay any Bank Fees or other

charges associated with the Debtor Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (iv) treat their prepetition Debtor Bank Accounts for all purposes as debtor in possession accounts

5. The Debtors are authorized, subject to the reasonable consent of the Required DIP Lenders (as defined in the DIP Orders (defined below)), to open new bank accounts and enter into any ancillary agreements, including new deposit account control agreements, related to the foregoing; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Debtor Bank Account as if it had been listed on **Appendix 1** to this Final Order under the heading "Debtor Bank Accounts"; *provided further* that such opening of an account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within ten (10) business days to the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the administrative agent for the Debtors' prepetition and proposed postpetition financing lenders; and *provided further* that the Debtors shall only open any such new Debtor Bank Account at a bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement.

6. Each Bank is authorized to accept and rely upon, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated before, on, or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of this Court (but such check, draft, wire, or other transfer shall only be honored to the extent of available funds). No Bank shall incur any liability for relying upon any Debtor's instruction as to which checks, drafts, wires, or ACH

transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire, or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Debtor Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue, and payee information, those checks that are to be dishonored by such Bank (the "**List of Checks to be Dishonored**"), which checks may include those issued after the Petition Date as well as those issued before the Petition Date that are not to be honored or paid according to any order of this Court, and each Bank may honor all other checks. Except for those checks, drafts, wires, or ACH transfers that are authorized or required to be honored under an order of this Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Debtor Bank Account before the Petition Date but presented to such Bank for payment after the Petition Date. The Debtors shall include on the List of Checks to be Dishonored: (i) all pre-petition checks, drafts or other payment item issued on a Debtor Bank Account before the Petition Date that remain outstanding as of the Petition Date, other than those authorized or required to be honored under an order of this Court and (ii) all post-petition checks paying pre-petition obligations, other than those that are authorized or required to be honored under an order of this Court.

7. Nothing contained herein shall prevent the Debtors from closing any Debtor Bank Accounts as they may deem necessary and appropriate, if consistent with the terms of any postpetition financing agreement and any orders of this Court relating thereto. Any relevant Bank is further authorized to honor the Debtors' requests to close such Debtor Bank Accounts, and the Debtors shall give notice of the closure of any account within ten (10) business days to the U.S.

Trustee, counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the DIP Lenders (as defined in the DIP Orders).

8. For Banks that are not a party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors shall use their good faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the Office of the United States Trustee within forty five (45) days of the date of entry of the Interim Order.

9. The Debtors are authorized, but not directed, to continue engaging in Ordinary Course Intercompany Transactions in connection with the Cash Management System in the ordinary course of business (including with respect to netting or setoffs permitted by section 553 of the Bankruptcy Code), but subject to the terms of the Debtors' DIP Credit Agreement (as defined in the DIP Orders).

10. The Debtors shall not be authorized by this Final Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (i) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (ii) prohibited or restricted by the terms of the DIP Orders. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid postpetition Intercompany Transactions made in the ordinary course between Debtors shall be accorded administrative expense status, junior to any adequate protection claims granted under the DIP Orders.

11. Unless prohibited by applicable law, transfers made by a Debtor to a Non-Debtor Affiliate pursuant to a postpetition Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that

any transfers by a Non-Debtor Affiliate to a Debtor will reduce the claim against the Non-Debtor Affiliate and any such transfer shall be subject to the terms of the DIP Credit Agreement.

12. The Debtors shall maintain accurate and detailed records of all transactions and transfers, including Ordinary Course Intercompany Transactions, within the Cash Management System, so that all postpetition transfers and transactions are readily ascertainable, traceable, recorded properly, and distinguished between prepetition and postpetition transactions.

13. The Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, and charge back returned items, whether such items were deposited prepetition or postpetition, to the Debtor Bank Accounts in the ordinary course. Any such postpetition fees, costs, charges, and expenses, including the Bank Fees, or charge-backs are not so paid shall be entitled to priority as administrative expense pursuant to section 503(b)(1) of the Bankruptcy Code.

14. The Debtors shall have forty-five (45) calendar days (or such additional time as the U.S. Trustee may agree to) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

15. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any

creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

16. Notwithstanding anything in the Motion or this Final Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; (iii) the Budget (as defined in the DIP Orders); and (iv) the terms and conditions set forth in the Restructuring Support Agreement. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Final Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

17. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

18. Notwithstanding entry of this Final Order, nothing herein shall (a) create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party or (b) alter or impair the validity, continuation, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

19. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

20. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

21. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

22. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (XXXX)	Account Type
Debtor Bank Accounts				
1	Skillsoft Corporation	Bank of America	XXXX9979	Operating
2	SumTotal Systems LLC	Silicon Valley Bank	XXXX2718	Lockbox
3	SumTotal Systems LLC	Wells Fargo Bank	XXXX4963	Lockbox
4	SumTotal Systems LLC	Silicon Valley Bank	XXXX2703	Operating
5	Skillsoft Canada Limited	Bank of America	XXXX4203	Operating
6	Skillsoft Canada Limited	Bank of America	XXXX4104	Operating
7	Skillsoft Limited	Bank of America	XXXX6034	Operating
8	Pointwell Limited	Bank of America	XXXX3019	Operating
9	Skillsoft Ireland Limited	Bank of America	XXXX1011	Operating
10	Skillsoft Ireland Limited	Bank of America	XXXX1029	Operating
11	Thirdforce Group Limited	Bank of America	XXXX1016	Operating
12	Skillsoft U.K. Limited	Bank of America	XXXX7017	Operating
13	Skillsoft U.K. Limited	Bank of America	XXXX7025	Operating
14	Skillsoft U.K. Limited	Bank of America	XXXX7033	Operating
15	Skillsoft U.K. Limited	Bank of America	XXXX7041	Operating
Non-Debtor Bank Accounts				
1	MindLeaders Ireland Learning Limited	Bank of America	XXXX4010	Operating
2	Skillsoft NETg GmbH	Bank of America	XXXX3013	Operating
3	Skillsoft NETg GmbH	Bank of America	XXXX0018	Operating
4	Skillsoft France SARL	Bank of America	XXXX1013	Operating

5	Skillsoft France SARL	Bank of America	XXXX1021	Operating
6	Skillsoft Group France SAS	Bank of America	XXXX8019	Operating
7	SumTotal Systems France SAS	Bank of America	XXXX1014	Operating
8	SumTotal Systems France SAS	Bank of America	XXXX1022	Operating
9	Skillsoft Digital (France) SAS	Bank of America	XXXX9018	Operating
10	SumTotal Systems Canada Limited	Bank of America	XXXX4106	Operating
11	SumTotal Systems Canada Limited	Bank of America	XXXX4205	Operating
12	SumTotal Systems U.K. Limited	Bank of America	XXXX2019	Operating
13	SumTotal Systems U.K. Limited	Bank of America	XXXX2035	Operating
14	SumTotal Systems U.K. Limited	Bank of America	XXXX2027	Operating
15	SumTotal Systems ANZ Pty. Ltd	Bank of America	XXXX3010	Operating
16	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3015	Operating
17	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3023	Operating
18	SumTotal Systems India Private Limited	CitiBank	XXXX25555	Operating
19	SumTotal Systems India Private Limited	CitiBank	XXXX45555	Operating
20	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1011	Operating
21	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1029	Operating
22	SumTotal Systems Japan	Mitsuisumitomo	XXXX7719	Operating
23	SumTotal Systems Japan	Mitsuisumitomo	XXXX3415	Operating
24	Skillsoft Software Services India Private Limited	Bank of America	XXXX7059	Operating
25	Skillsoft Software Services India Private Limited	Bank of America	XXXX7067	Operating

26	Skillsoft New Zealand Limited	Bank of America	XXXX1600	Operating
27	Element K India Private Limited	Bank of America	XXXX3012	Operating
28	Skillsoft (China) Ltd.	ICBC	XXXX1732	Operating
29	Skillsoft (China) Ltd.	ICBC	XXXX1821	Operating
30	Skillsoft (China) Ltd.	ICBC	XXXX2705	Operating

TAB Z

Interim Order (I) Authorizing Debtors to (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, and (C) Continue Intercompany Transactions and Provide Administrative Expense Priority for Postpetition Intercompany Claims; (II) Extending Time to Comply with 11 U.S.C. § 345(b); and (III) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 10**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE EXISTING CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED TO THE USE THEREOF, AND (C) CONTINUE INTERCOMPANY TRANSACTIONS AND PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (II) EXTENDING TIME TO COMPLY WITH 11 U.S.C. § 345(b); AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing, but not directing, the Debtors to (a) continue using their existing cash management system (the "**Cash Management System**"), as described in the Motion, including the maintenance of existing bank account (the "**Bank Accounts**") at their existing bank (the "**Banks**") consistent with their prepetition practices, (b) honor certain prepetition obligations related to the Cash Management System, and (c) continue

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Intercompany Transactions between and among the Debtors and their non-debtor affiliates and subsidiaries (the "**Non-Debtor Affiliates**"), as set forth herein but otherwise in the ordinary course of business and consistent with their prepetition practices, and to provide administrative expense priority for postpetition Intercompany Claims; (ii) extending the time to comply with the requirements of section 345(b) of the Bankruptcy Code; and (iii) granting certain related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 363(c) and 105(a) of the Bankruptcy Code, to continue to manage their cash pursuant to the Cash Management System maintained by the Debtors before the Petition Date; to collect and disburse cash in accordance with the Cash Management System and Ordinary Course Intercompany Transactions, except as otherwise set forth herein; and to make ordinary course changes to their Cash Management System, provided that such changes do not have a material adverse effect on the Debtors' estates.

3. The Debtors in their capacity as Originators are authorized, but not directed to continue complying with the terms of the AR Facility Agreement and the AR Purchase Agreement in the ordinary course of business.

4. The Debtors are authorized, but not directed, to continue using, in their present form (or as subsequently amended in accordance with this Interim Order), the Business Forms, as well as checks and other documents related to the Debtor Bank Accounts existing immediately before the Petition Date; *provided* that once the Debtors' existing Business Forms, checks, and other related documents have been used, the Debtors shall use reasonable efforts, when reordering checks or reprinting Business Forms or other related documents, to require the designation "Debtor in Possession" and the corresponding bankruptcy case number on such checks, Business Forms, and related documents; *provided further* that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend and the bankruptcy case number on such items within 10 business days of the date of entry of this Interim Order.

5. Notwithstanding anything to the contrary in the U.S. Trustee Operating Guidelines, the Debtors are further authorized to: (i) designate, maintain and continue to use any

or all of their existing Debtor Bank Accounts in the names and with the account numbers existing immediately before the Petition Date in the ordinary course and in a manner consistent with prepetition practices; (ii) deposit funds in and withdraw funds from such accounts by all usual means, including through checks, wire transfers, ACH transfers, and other debits in the ordinary course and in a manner consistent with prepetition practices; (iii) pay any Bank Fees or other charges associated with the Debtor Bank Accounts, whether arising before or after the Petition Date, in the ordinary course and consistent with the Debtors' prepetition practice; and (iv) treat their prepetition Debtor Bank Accounts for all purposes as debtor in possession accounts.

6. The Debtors are authorized, subject to the reasonable consent of Required DIP Lenders (as defined in the DIP Orders (defined below)), to open new bank accounts and enter into any ancillary agreements, including new deposit account control agreements, related to the foregoing; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Debtor Bank Account as if it had been listed on **Appendix 1** to this Interim Order under the heading "Debtor Bank Accounts"; *provided further* that such opening of an account shall be timely indicated on the Debtors' monthly operating report and notice of such opening shall be provided within ten (10) business days to the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), counsel to any statutory committee appointed in these chapter 11 cases, and counsel to the administrative agent for the Debtors' prepetition and proposed postpetition financing lenders; and *provided further* that the Debtors shall only open any such new Debtor Bank Account at a bank that has executed a Uniform Depository Agreement with the U.S. Trustee, or at such bank that is willing to immediately execute such agreement.

7. Each Bank is authorized to accept and rely upon, all representations from the Debtors as to which checks, drafts, wires or ACH transfers are dated before, on, or after the Petition Date and which checks are to be honored or dishonored, regardless of whether or not such payment or honoring is or is not authorized by an order of this Court (but such check, draft, wire, or other transfer shall only be honored to the extent of available funds). No Bank shall incur any liability for relying upon any Debtor's instruction as to which checks, drafts, wires, or ACH transfers should be honored or dishonored or for such Bank's inadvertence in honoring any check, draft, wire, or ACH transfer at variance from the Debtors' instructions unless such inadvertence constituted gross negligence or willful misconduct on the part of such Bank. Each Debtor shall promptly provide a list of checks to each Bank for each Debtor Bank Account maintained at such Bank specifying, by check sequencing number, dollar amount, date of issue, and payee information, those checks that are to be dishonored by such Bank (the "**List of Checks to be Dishonored**"), which checks may include those issued after the Petition Date as well as those issued before the Petition Date that are not to be honored or paid according to any order of this Court, and each Bank may honor all other checks. Except for those checks, drafts, wires, or ACH transfers that are authorized or required to be honored under an order of this Court, the Debtors shall not instruct or request any Bank to pay or honor any check, draft, or other payment item issued on a Debtor Bank Account before the Petition Date but presented to such Bank for payment after the Petition Date. The Debtors shall include on the List of Checks to be Dishonored: (i) all pre-petition checks, drafts or other payment item issued on a Debtor Bank Account before the Petition Date that remain outstanding as of the Petition Date, other than those authorized or required to be honored under an order of this Court and (ii) all postpetition checks paying

prepetition obligations, other than those that are authorized or required to be honored under an order of this Court.

8. Nothing contained herein shall prevent the Debtors from closing any Debtor Bank Accounts as they may deem necessary and appropriate, if consistent with the terms of any postpetition financing agreements and any orders of this Court relating thereto. Any relevant Bank is further authorized to honor the Debtors' requests to close such Debtor Bank Accounts, and the Debtors shall give notice of the closure of any account within ten (10) business days to the U.S. Trustee, counsel to any statutory committee appointed in these chapter 11 cases and counsel to the DIP Lenders (as defined in the DIP Orders).

9. For all Banks at which the Debtors maintain Debtor Bank Accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen (15) business days of the date of entry of this Interim Order, the Debtors shall (i) contact each such Bank, (ii) provide each such Bank with each of the Debtors' employee identification numbers, and (iii) identify each of their Debtor Bank Accounts held at such Banks as being held by a debtor in possession in a chapter 11 case.

10. For Banks that are not a party to a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, the Debtors shall use their good faith efforts to cause the bank to execute a Uniform Depository agreement in a form prescribed by the Office of the United States Trustee within forty five (45) days of the date of entry of this Order.

11. The Debtors are authorized, but not directed, to continue engaging in Ordinary Course Intercompany Transactions in connection with the Cash Management System in the ordinary course of business (including with respect to netting or setoffs permitted by section 553 of the Bankruptcy Code), but subject to the terms of the Debtors' DIP Credit

Agreement (as defined in the DIP Orders); *provided, however*, that before the final order on this Motion, transfers from the Debtors to Non-Debtor Affiliates shall not exceed $2 million.

12. The Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions or set off mutual postpetition obligations relating to intercompany receivables and payables that are (i) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course of business during the prepetition period or (ii) prohibited or restricted by the terms of the DIP Orders. Pursuant to sections 503(b)(1) and 364(b) of the Bankruptcy Code, all valid net postpetition Intercompany Transactions made in the ordinary course between Debtors shall be accorded administrative expense status, junior to any adequate protection claims granted under the DIP Orders.

13. Unless prohibited by applicable law, transfers made by a Debtor to a Non-Debtor Affiliate pursuant to a postpetition Intercompany Transaction shall be deemed a claim against, and loan to, such Non-Debtor Affiliate (and not a contribution of capital); *provided* that any transfers by a Non-Debtor Affiliate to a Debtor will reduce the claim against the Non-Debtor Affiliate and any such transfer shall be subject to the terms of the DIP Credit Agreement.

14. The Debtors shall maintain accurate and detailed records of all transactions and transfers, including Intercompany Transactions, within the Cash Management System, so that all postpetition transfers and transactions are readily ascertainable, traceable, recorded properly, and distinguished between prepetition and postpetition transactions.

15. The Banks are authorized to charge, and the Debtors are authorized, but not directed, to pay, honor, or allow, prepetition and postpetition fees, costs, charges, and expenses, including the Bank Fees, and charge back returned items, whether such items were deposited prepetition or postpetition, to the Debtor Bank Accounts in the ordinary course. Any such

postpetition fees, costs, charges, and expenses, including the Bank Fees, or charge-backs are not so paid shall be entitled to priority as administrative expense pursuant to section 503(b)(1) of the Bankruptcy Code.

16. The Debtors shall have forty-five (45) calendar days (or such additional time as the U.S. Trustee may agree to) from the Petition Date within which to either come into compliance with section 345(b) of the Bankruptcy Code or to make such other arrangements as agreed to by the U.S. Trustee, and that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) of the Bankruptcy Code.

17. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

18. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; (iii) the Budget (as defined in the DIP Orders); and (iv) the terms

and conditions set forth in the Restructuring Support Agreement. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

19. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

20. Notwithstanding entry of this Interim Order, nothing herein shall (a) create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party or (b) alter or impair the validity, continuation, priority, enforceability, or perfection of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

22. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

23. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

24. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington,

Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

25. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

26. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Appendix 1

	Entity	Bank Name	Account Number (XXXX)	Account Type
Debtor Bank Accounts				
1	Skillsoft Corporation	Bank of America	XXXX9979	Operating
2	SumTotal Systems LLC	Silicon Valley Bank	XXXX2718	Lockbox
3	SumTotal Systems LLC	Wells Fargo Bank	XXXX4963	Lockbox
4	SumTotal Systems LLC	Silicon Valley Bank	XXXX2703	Operating
5	Skillsoft Canada Limited	Bank of America	XXXX4203	Operating
6	Skillsoft Canada Limited	Bank of America	XXXX4104	Operating
7	Skillsoft Limited	Bank of America	XXXX6034	Operating
8	Pointwell Limited	Bank of America	XXXX3019	Operating
9	Skillsoft Ireland Limited	Bank of America	XXXX1011	Operating
10	Skillsoft Ireland Limited	Bank of America	XXXX1029	Operating
11	Thirdforce Group Limited	Bank of America	XXXX1016	Operating
12	Skillsoft U.K. Limited	Bank of America	XXXX7017	Operating
13	Skillsoft U.K. Limited	Bank of America	XXXX7025	Operating
14	Skillsoft U.K. Limited	Bank of America	XXXX7033	Operating
15	Skillsoft U.K. Limited	Bank of America	XXXX7041	Operating
Non-Debtor Bank Accounts				
1	MindLeaders Ireland Learning Limited	Bank of America	XXXX4010	Operating
2	Skillsoft NETg GmbH	Bank of America	XXXX3013	Operating
3	Skillsoft NETg GmbH	Bank of America	XXXX0018	Operating
4	Skillsoft France SARL	Bank of America	XXXX1013	Operating

5	Skillsoft France SARL	Bank of America	XXXX1021	Operating
6	Skillsoft Group France SAS	Bank of America	XXXX8019	Operating
7	SumTotal Systems France SAS	Bank of America	XXXX1014	Operating
8	SumTotal Systems France SAS	Bank of America	XXXX1022	Operating
9	Skillsoft Digital (France) SAS	Bank of America	XXXX9018	Operating
10	SumTotal Systems Canada Limited	Bank of America	XXXX4106	Operating
11	SumTotal Systems Canada Limited	Bank of America	XXXX4205	Operating
12	SumTotal Systems U.K. Limited	Bank of America	XXXX2019	Operating
13	SumTotal Systems U.K. Limited	Bank of America	XXXX2035	Operating
14	SumTotal Systems U.K. Limited	Bank of America	XXXX2027	Operating
15	SumTotal Systems ANZ Pty. Ltd	Bank of America	XXXX3010	Operating
16	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3015	Operating
17	Skillsoft Asia Pacific Pty Ltd.	Bank of America	XXXX3023	Operating
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20	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1011	Operating
21	Skillsoft Asia Pacific Pte. Ltd.	Bank of America	XXXX1029	Operating
22	SumTotal Systems Japan	Mitsuisumitomo	XXXX7719	Operating
23	SumTotal Systems Japan	Mitsuisumitomo	XXXX3415	Operating
24	Skillsoft Software Services India Private Limited	Bank of America	XXXX7059	Operating
25	Skillsoft Software Services India Private Limited	Bank of America	XXXX7067	Operating

26	Skillsoft New Zealand Limited	Bank of America	XXXX1600	Operating
27	Element K India Private Limited	Bank of America	XXXX3012	Operating
28	Skillsoft (China) Ltd.	ICBC	XXXX1732	Operating
29	Skillsoft (China) Ltd.	ICBC	XXXX1821	Operating
30	Skillsoft (China) Ltd.	ICBC	XXXX2705	Operating

TAB AA

Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief

Docket #0007 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non -Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), the Debtors seek entry of interim and final

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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orders (i) authorizing, but not directing the Debtors to (a) continue to maintain their Insurance Policies and Programs (as defined herein) and, (b) honor their Insurance Obligations (as defined herein) in the ordinary course of business during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations, including amounts owed to the Broker (as defined herein), and (c) modify the automatic stay if necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program (as defined herein), and (ii) granting related relief. In furtherance of the foregoing, the Debtors also seek authority to increase, renew, or extend their insurance coverage if they determine, in their reasonable business judgment, that such action is necessary or appropriate.

2. The Debtors further request that the Court (i) authorize all applicable financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing to the extent directed by the Debtors in accordance with this Motion and to the extent the Debtors have sufficient funds standing to their credit with such Banks, whether such checks were presented or electronic requests were submitted before or after the Petition Date (as defined herein), and (ii) authorize all Banks to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion, without any duty of further inquiry, and without liability for following the Debtors' instructions.

3. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

4. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

5. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief*

(the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; and (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Debtors' Insurance Policies and Programs

11. In connection with the operation of the Debtors' business, the Debtors maintain various insurance policies and workers' compensation programs (collectively, the "**Insurance Policies and Programs**" and all premiums and other obligations related thereto, including any workers' compensation claims, and broker or advisor fees, assessments, or other fees, collectively, the "**Insurance Obligations**") through several different insurance carriers (the "**Insurers**") including, but not limited to, those Insurance Policies and Programs and Insurers listed on **Exhibit C** annexed hereto (the "**Insurance Schedule**").[3]

A. The Insurance Policies

12. The Debtors maintain various liability, property and other insurance policies, which provide the Debtors with insurance related to, among other things, property liability, general liability, automotive liability, foreign liability,[4] excess liability, workers' compensation, directors' and officers' liability, employment practice liability, fiduciary liability, crime, errors and omissions liability and cyber liability (collectively, the "**Insurance Policies**"). The Debtors maintain the Insurance Policies to help manage and limit the various risks associated with operating their businesses, which is essential to the preservation of the value of the Debtors' businesses and assets. Some of the Insurance Policies are required by certain regulations, laws, and contracts that govern the Debtors' commercial activities. Further, the Bankruptcy Code reinforces these requirements, as section 1112(b)(4)(C) of the Bankruptcy Code provides that

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[3] Due to the size and complexity of the Debtors' businesses, it is possible that certain of the Debtors' Insurance Policies and Programs may have been inadvertently omitted from the list of Insurance Policies and Programs set forth on **Exhibit C** hereto. Accordingly, **Exhibit C** includes a non-exhaustive list of the Debtors' Insurance Policies and Programs. Furthermore, the Debtors may, in the future, enter into new Insurance Policies and Programs not listed on **Exhibit C**.

[4] The Debtors generally secure a local policy where required by local regulation.

"failure to maintain appropriate insurance that poses a risk to the estate or to the public," is "cause" for mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C).

13. Pursuant to the Insurance Policies, the Debtors pay quarterly premiums based upon a fixed rate established and billed by each Insurer (collectively, the "**Insurance Premiums**"). The Debtors pay approximately $2,300,000 in Insurance Premiums each year. As of the Petition Date, the Debtors' believe there are no Insurance Premium payments due and payable for the Insurance Policies and Programs, nor will any become due and payable within the first twenty-one (21) days of these chapter 11 cases. However, out of an abundance of caution, the Debtors' are seeking interim relief to continue to maintain and renew any Insurance Policies that may expire during the interim period, and to the extent any payments become due, authority to make such payments.[5]

14. By this Motion, the Debtors seek authority to pay their Insurance Premiums, as they come due, in the ordinary course of business, whether arising from the prepetition or postpetition period, throughout these chapter 11 cases.

B. The Workers' Compensation Program

15. The Debtors maintain workers' compensation insurance as required by statute in each of the states, territories and foreign jurisdictions in which they operate (collectively, the "**Workers' Compensation Program**").

16. The Debtors' participate in a guaranteed cost program with respect to the Workers' Compensation Program. In each instance, the Debtors' liability for each Workers' Compensation claim (the "**Workers' Compensation Claim**") is covered in full by the Insurer and

[5] Certain Insurance Policies are set to renew on June 15th, however, the Debtors do not anticipate that payments associated with such renewals do not come due until after the interim period.

requires no deductible. The Debtors, as the insured, only pay an annual premium and the Insurer pays all claims and expenses. Specifically, the Debtors maintain Workers' Compensation insurance through a policy with Chubb (Pacific Indemnity Company) ("**Chubb PIC**"). The coverage period is June 15, 2019 through June 15, 2020,[6] and the annual premium was approximately $201,000, which was based on projected employee payroll and paid in full prior to the Petition Date. Accordingly, to the best of their knowledge, the Debtors do not owe any prepetition amounts on account of the Workers' Compensation Program as of the Petition Date.

17. Under the Workers' Compensation Program, Chubb PIC is obligated to pay all or part of a Workers' Compensation Claim directly to an employee, his or her medical providers, or his or her heirs or legal representatives. As of the Petition Date, the Debtors are not aware of any open or potential Workers' Compensation Program Claims. It is possible that an event giving rise to an obligation of Chubb PIC to make a payment on account of a Workers' Compensation Claim—for example, for injury or disease of an employee—could have occurred prepetition without the Debtors' knowledge. Accordingly, out of an abundance of caution, the Debtors seek modification of the automatic stay to (i) the extent necessary to permit the Debtors' employees to proceed against Chubb PIC with any claims they may have under the Workers' Compensation Program and (ii) allow Chubb PIC to pay such Workers' Compensation Claims and related costs.

18. By this Motion, the Debtors request authority to maintain their Workers' Compensation Program in the ordinary course of business, and to pay any obligations arising under or in connection with the Workers' Compensation Program.

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[6] The policy with Chubb PIC will automatically review on June 15, 2020, however, the Debtors do not anticipate any amounts being owed on the renewed policy until mid-July.

C. The Debtors' Insurance Broker

19. In connection with maintaining the Insurance Policies and Programs, the Debtors employ certain insurance service providers to help them procure, negotiate and evaluate the Insurance Policies and Programs and process claims related thereto.

20. The Debtors utilize Marsh & McLennan Companies, Inc.[7] (the "**Broker**") as their insurance broker and service provider to assist with the procurement and negotiation of certain Insurance Policies and, in certain circumstances, to remit payment to the Insurers on behalf of the Debtors. In exchange for these services, the Broker's compensation is included as part of the quarterly premiums paid by the Debtors.

21. By this Motion, the Debtors request to continue honoring their obligations to the Broker in the ordinary course of business.

Relief Requested Should Be Granted

A. Maintaining the Debtors' Insurance Policies and Programs and Payment of the Insurance Obligations Related Thereto is in the Ordinary Course of the Debtors Business Permitted by Section 363

22. Section 363(c)(1) of the Bankruptcy Code authorizes a debtor to "use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1). The purpose of this section is to provide a debtor in possession with the flexibility to engage in the ordinary transactions required to operate its business without unneeded oversight by its creditors or the court. *In re Roth Am., Inc.*, 975 F.2d 949, 952 (3d Cir. 1992) ("Section 363 is designed to strike [a] balance, allowing a business to continue its daily operations without excessive court or creditor oversight and protecting secured creditors and others from dissipation

[7] The Debtors use the Broker's foreign affiliates to secure foreign policies as needed.

of the estate's assets.") (internal citation omitted); *Vision Metals, Inc. v. SMS Demag, Inc. (In re Vision Metals, Inc.)*, 325 B.R. 138, 145 (Bankr. D. Del. 2005) (same). Included within the purview of section 363(c) of the Bankruptcy Code is a debtor's ability to continue "routine transactions." *See e.g. In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796 (Bankr. D. Del. 2007) (noting that courts have shown reluctance to interfere in a debtor's making of routine, day-to-day business decisions); *Vison Metals*, 325 B.R. at 142 ("[W]hen a chapter 11 debtor in possession continues to operate its business, as permitted by section 1108, no court authorization is necessary for the debtor to enter transactions that fall within the ordinary course of its business."). Here, maintaining the Insurance Policies Programs and honoring the Insurance Obligations related thereto are the type of ordinary-course transactions contemplated by section 363(c)(1) of the Bankruptcy Code. Accordingly, section 363(c)(1) authorizes the continuation of the Insurance Policies and Programs in the ordinary course of business.

23. Even if continuation of the Insurance Policies and Programs and other relief requested herein is outside of the ordinary course, the Court may grant the relief requested pursuant to section 363 of the Bankruptcy Code. Section 363(b) provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery World Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *see also In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). Moreover, if "the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will

generally not entertain objections to the debtor's conduct." *Comm. Of Asbestos Related Litigants and/or Creditors v. Johns-Manville-Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also Stanziale v. Nachtomi (In re Tower Air, Inc.)*, 416 F.3d 229, 238 (3d. Cir. 2005) (stating that "[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task").

24. The Insurance Policies and Programs are essential to the Debtors' operations, as the Debtors would be exposed to significant liability if the Insurance Policies and Programs were allowed to lapse or terminate. Such exposure could have a materially adverse impact on the Debtors' chapter 11 strategy and their ability to maximize value for their stakeholders. The Court should also authorize the Debtors to continue paying their Broker in the ordinary course of business. The Broker is intimately familiar with the Debtors' business and Insurance Policies and Programs and Insurance Obligations. Losing the services provided by the Insurance Service Providers would result in a costly disruption to the Debtors' businesses and breach of certain contractual obligations would detract from efficient administration of these chapter 11 cases. If the Court determines that maintaining the Insurance Policies and Programs is not in their ordinary course of business, the Court should authorize the continuance of the Insurance Policies and Programs as a valid exercise of the Debtors' business judgment.

B. Payment of the Insurance Obligations Related to the Insurance Policies and Programs is Warranted Under Section 363(b)(1) of the Bankruptcy Code and the Doctrine of Necessity

25. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. 11 U.S.C. § 363(b)(1). Section 363(b) provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy

Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *In re Montgomery Ward Holding Corp.*, 242 B.R. at 153 (internal citations omitted); *see also In re Phoenix Steel Corp.*, 82 B.R. at 335–36.

26. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code "contains an implied duty of the debtor-in-possession" to "protect and preserve the estate, including an operating business' going-concern value," on behalf of a debtor's creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 233 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.").

27. Further, in a long line of well-established cases, courts consistently have permitted payment of prepetition obligations where such payment is necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport, C & S W.R. Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of the continuance of [crucial] business relations"); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of

the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

28. In addition, the Court may rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the payment of prepetition claims when such payment is essential to the continued operation of a debtor's business. *See*, *e.g.*, *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides statutory basis for payment of prepetition claims under the doctrine of necessity particularly when such payment is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

29. Paying the Insurance Obligations are necessary costs of preserving the Debtors' estates. The Debtors are contractually and legally obligated to maintain certain types of insurance, and the Debtors must maintain certain of the Insurance Policies and Programs in order to comply with the operating guidelines of the Office of the United States Trustee for Region 3. For example, applicable state law mandates that certain Debtors maintain workers' compensation coverage for their employees. The Debtors' failure to maintain the Workers' Compensation Program could jeopardize their coverage and expose the Debtors to fines and other adverse actions by state workers' compensation boards. In addition, the risk that eligible workers' compensation

claimants would not receive timely payments for prepetition employment-related injuries could negatively impact the financial well-being and morale of not just those claimants, but also the Debtors' active employees.

30. Accordingly, authority to continue maintaining the Insurance Policies and to pay all Insurance Obligations, including any unpaid Insurance Obligations arising prior to the commencement of these chapter 11 cases, is critical to the Debtors' ability to preserve the going-concern value of their businesses, which will inure to the benefit of all parties in interest. Moreover, the relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. The Debtors are not aware of any prepetition amounts due, but are seeking authorization out of an abundance of caution in case there is something that the Debtors are not currently aware of.

C. The Automatic Stay Should Be Modified for Workers' Compensation Claims

31. Section 362(a)(1) of the Bankruptcy Code operates to stay:

> the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a)(1). Section 362(d)(1), however, permits a debtor or other party in interest to request a modification or termination of the automatic stay for "cause." 11 U.S.C. § 362(d)(1).

32. Pursuant to section 362(d) of the Bankruptcy Code, the Debtors seek authority to modify the automatic stay to permit employees who hold workers' compensation claims to proceed with such claims in the appropriate judicial or administrative forum. The

Debtors further request that any recovery on account of such claims be limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

33. There is cause to modify the automatic stay because staying the workers' compensation claims could result in employee departures or otherwise harm employee morale, at a time when the Debtors need their workforce to be operating at peak efficiency. Unnecessary distractions – or worse, heavy attrition – could jeopardize the Debtors' chapter 11 strategy and result in irreversible harm to the Debtors' businesses. Accordingly, the Debtors respectfully request that the Court modify the automatic stay as it relates to valid workers' compensation claims to allow employees holding any such claims to pursue resolution and collection from the applicable Insurance Providers and any other non-Debtor sources.

D. Cause Exists to Authorize Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers

34. The Debtors have sufficient funds to pay the Insurance Obligations in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor-in-possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Insurance Obligations addressed in this Motion. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that the Court should authorize the Banks, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested herein, solely to the extent that the Debtors have sufficient funds standing to their credit with such Banks, and such Banks may rely on the representations of the Debtors without any duty of further inquiry and without liability for following the Debtors' instructions.

Reservation of Rights

35. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

36. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, the lapse, termination, or non-renewal of any of the Insurance Policies and Programs as a result of the Debtors' failure to pay their Insurance Obligations could subject the Debtors to substantial administrative liability and a potential cessation of operations. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 4001(a)(3), 6004(a) and 6004(h)

37. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances,

and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h) and an order authorizing relief from the automatic stay under Bankruptcy Rule 4001(a). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors' estates. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h) and 4001(a)(3), to the extent such notice requirements and such stay apply.

Notice

38. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) the Securities and Exchange Commission; (xi) any party that has requested notice

pursuant to Bankruptcy Rule 2002; and (xii) the Insurers, the Broker, the Banks and Chubb PIC (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an interim order (the "**Interim Order**") (i) authorizing, but not directing, the Debtors to (a) continue maintaining their Insurance Policies and Programs and (b) honor their Insurance Obligations in the ordinary course of business during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations, including amounts owed to the Insurance Service Providers, (c) modify the automatic

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

stay if necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Insurance Obligations (including amounts owed to the Insurance Service Providers) arising under or relating to the Insurance Policies and Programs, including any new Insurance Policies and Programs, without regard to whether such Insurance Policies and Programs are listed on **Exhibit C** to the Motion, and without regard to whether

accruing or relating to the period before or after the Petition Date, on an interim basis without further order of the Court.

3. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs in accordance with practices and procedures that were in effect before the Petition Date.

4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including through the purchase or renewal of new or existing Insurance Policies and Programs.

5. The automatic stay is modified solely to the extent necessary to permit the Debtors' employees to proceed with any valid claims they may have under the Workers' Compensation Program, provided that any recovery on account of such claims is limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Insurance Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Insurance Obligations, and to

replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

8. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted here, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Approved Budge (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **[●], 2020 at 4:00 p.m. (prevailing Eastern Time)**.

15. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of a final order (the "**Final Order**") (i) authorizing, but not directing, the Debtors to (a) continue maintaining their Insurance Policies and Programs and (b) honor their Insurance Obligations in the ordinary course of business during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations including amounts owed to the Insurance Service Providers, and (c) modifying the automatic stay if

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis (the "**Hearing**"), if necessary and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay, in the ordinary course of business as such obligations become due, all Insurance Obligations (including amounts owed to the Insurance Service Providers) arising under or relating to the Insurance Policies and Programs, including any new Insurance Policies and Programs, without regard to whether such Insurance Policies and Programs are listed on **Exhibit C** to the Motion, and without regard to

whether accruing or relating to the period before or after the Petition Date, without further order of the Court.

3. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs in accordance with practices and procedures that were in effect before the commencement of these chapter 11 cases.

4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including through the purchase or renewal of new or existing Insurance Policies and Programs.

5. The automatic stay is modified solely to the extent necessary to permit the Debtors' employees to proceed with any valid claims they may have under the Workers' Compensation Program, provided that any recovery on account of such claims is limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Insurance Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Insurance Obligations, as set

forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

8. Notwithstanding anything in the Motion or this Final Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Approved Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Final Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

12. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

14. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit C

Insurance Schedule

Type of Coverage	Insurance Carrier	Policy Number	Current Policy Period	Total Premium
General Insurance Policy and Programs				
• D&O – HCC (Primary) • EPL • Fiduciary	US Specialty Insurance Company	14MGU-19-A47268	7/15/19 – 9/15/20	$486,335
D&O (1st Excess)	Argo Pro	MLX 4244085-0	7/15/19 – 9/15/20	$127,623
D&O Sompo (2nd Excess)	Endurance American Insurance Company	DOX10004856105	7/15/19 – 9/15/20	$95,734
D&O – Axis (3rd Excess)	Axis Insurance Company	MNN639842/01/2019	7/15/19 – 9/15/20	$78,380
D&O – Starr (4th Excess)	Starr Indemnity & Liability Company	1000621868191	7/15/19 – 9/15/20	$70,542
D&O – Ironshore (5th Excess)	Ironshore Indemnity Inc.	004140100	7/15/19 – 9/15/20	$70,542
D&O – Tokio (6th Excess)	US Specialty Insurance Company	14-MGU-19-A47285	7/15/19 – 9/15/20	$70,000
D&O – Alpha (7th Excess)	Marsh Alpha Difference	B0509FINMN1900514	7/15/19 – 9/15/20	$138,693
D&O – ACE (8th Excess)	ACE American Insurance Company	G46886823001	7/15/19 – 9/15/20	$93,014
D&O – AWAC (9th Excess)	Allied World National Assurance Company	0311-9431	7/15/19 – 9/15/20	$88,362

Type of Coverage	Insurance Carrier	Policy Number	Current Policy Period	Total Premium
D&O – HCC (Luxembourg LOCAL)	TOKIO MARINE EUROPE, S.A.	F19E6710A001	7/15/19 – 7/15/20	$7,500
Excess Employment Practices • Liability Each Loss & Aggregate • Attachment Point • Retention Each Loss	Ironshore Indemnity Inc.	004140200	7/15/19 – 9/15/20	$189,246
Excess Employment Benefit Plan Fiduciary • Liability Each Loss & Aggregate • Attachment Point • Retention Each Loss	Ironshore Indemnity Inc.	004140300	7/15/19 – 9/15/20	$34,892
Special Risk Corporate Protection Insurance • Liability • Per Insured Person • Per Insured Event	Schinnerer & Company	SC1273611370	6/15/19 – 6/15/22	$26,361
Crime • Theft of Insured's Property • Theft of Client's Property • Social Engineering Fraud	Axis	MON793917/01/2018	6/15/19 – 6/15/20	$21,955
Cyber/Professional Liability – Internal and External attempts to steal confidential client information (data breaches)	Continental Casualty Company	425366895	6/15/19 – 6/15/20	$188,000
Cyber/Professional Liability Excess	National Union Fire Insurance Company of Pittsburgh, PA	01-462-52-92	6/15/19 – 6/15/20	$81,000
Cyber/Professional Liability Excess 2nd Layer	ACE American Insurance Company	XEO G255644996 005	6/15/19 – 6/15/20	$45,875
General Liability (Domestic and International) • General Aggregate • Products/Completed Operations Aggregate • Bodily Injury & Property Damage, Each Occurrence	Chubb (Great Northern Insurance Company)	3601-26-59	6/15/19 – 6/15/20	$13,437

Type of Coverage	Insurance Carrier	Policy Number	Current Policy Period	Total Premium
• Personal Injury & Advertising Injury, Each Occurrence • Damage to Premises Rented to You • Medical Expenses, Per Person				
Auto Liability	Chubb (Great Northern Insurance Company)	7359-37-29	6/15/19 – 6/15/20	$10,945
Umbrella Liability	Chubb (Federal Insurance Company)	7983-71-31	6/15/19 – 6/15/20	$25,018
• Property (Domestic and International) • Blanket Business Income with Extra Exposure • Earthquake • Flood • Business Income – Loss of Utilities	Chubb (Great Northern Insurance Company)	3601-26-59	6/15/19 – 6/15/20	$60,605
Foreign • General Aggregate: (per policy) • Products-Comp/Op Aggregate • Personal and Advertising Injury • Each Occurrence • Fire Damage: (Any One Fire) • Medial Expense: (Any One Person) • Business Automobile • Foreign Voluntary Workers' Compensation	Chubb (Great Northern Insurance Company)	3601-26-59	6/15/19 – 6/15/20	$52,934
Local Coverage • Australia • Canada • China • France • Germany • India • Ireland • Japan	Chubb (Great Northern Insurance Company)	3601-26-59	6/15/19 – 6/15/20	• $1,500 • $2,000 • $2,000 • $1,500 • $3,000 • $11,706 • $5,926 • $4,000

Type of Coverage	Insurance Carrier	Policy Number	Current Policy Period	Total Premium
• Mexico • Singapore • Switzerland • United Kingdom FOS (GL): Austria, Belgium, Italy, Netherlands, Spain				• $2,500 • $3.000 • $1,500 • $11,172
Storage Tanks (New Hampshire)	Chubb (ACE American Insurance Company)	G71144148 002	6/15/19 – 6/15/20	$350
Storage Tanks (Florida)	Chubb (ACE American Insurance Company)	G71144148 002	6/15/19 – 6/15/20	$763
Storage Tanks (Canada)	Liberty Mutual	TX2-TO1-107182-119	6/15/19 – 6/15/20	$2,400
Business Travel Accident	Chubb (ACE American Insurance Company)	ADD N10892454	6/15/19 – 6/15/20	$64,104
India Business Travel Accident – Overseas	Chubb (ACE American Insurance Company	ADD N10892454	6/15/19 – 6/15/20	$7,092
India Business Travel Accident – Domestic	Chubb (ACE American Insurance Company	ADD N10892454	6/15/19 – 6/15/20	$1,463
Workers' Compensation Programs				
Workers' Compensation • Coverage A: Workers' Compensation • Coverage B: Employers' Liability • Each Accident • Disease Policy Limit • Disease Each Employee	Chubb (Pacific Indemnity Company)	7173-65-78	6/15/19 – 6/15/20	$200,691

TAB BB

Interim Order (I) Authorizing Debtors to (A) Continue to Maintain their Insurance Policies and Programs, (B) Honor all Insurance Obligations, and (C) Modify the Automatic Stay with Respect to the Workers' Compensation Program, and (II) Granting Related Relief

Docket #0076 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 7**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) CONTINUE TO MAINTAIN THEIR INSURANCE POLICIES AND PROGRAMS, (B) HONOR ALL INSURANCE OBLIGATIONS, AND (C) MODIFY THE AUTOMATIC STAY WITH RESPECT TO THE WORKERS' COMPENSATION PROGRAM, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 362(d), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an interim order (the "**Interim Order**") (i) authorizing, but not directing, the Debtors to (a) continue maintaining their Insurance Policies and Programs and (b) honor their Insurance Obligations in the ordinary course of business

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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during the administration of these chapter 11 cases, including paying any prepetition Insurance Obligations, including amounts owed to the Insurance Service Providers, (c) modify the automatic stay if necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Program, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Insurance Obligations (including amounts owed to the Insurance Service Providers) arising under or relating to the Insurance Policies and Programs,

including any new Insurance Policies and Programs, without regard to whether such Insurance Policies and Programs are listed on **Exhibit C** to the Motion, and without regard to whether accruing or relating to the period before or after the Petition Date, on an interim basis without further order of the Court.

3. The Debtors are further authorized, but not directed, to maintain their Insurance Policies and Programs in accordance with practices and procedures that were in effect before the Petition Date.

4. The Debtors are authorized, but not directed, to revise, extend, supplement, or otherwise modify their insurance coverage as needed, including through the purchase or renewal of new or existing Insurance Policies and Programs.

5. The automatic stay is modified solely to the extent necessary to permit the Debtors' employees to proceed with any valid claims they may have under the Workers' Compensation Program, provided that any recovery on account of such claims is limited solely to the proceeds under the Debtors' applicable Insurance Policies and proceeds from non-Debtor sources.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Insurance Obligations are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Insurance Obligations, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

8. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted here, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Approved Budge (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

13. Notwithstanding Bankruptcy Rules 4001(a)(3) and 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

15. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB CC

Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief

Docket #0003 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, the Debtors request authority, pursuant to sections 105(a), 363(b), 507(a), and 541 of title 11 of the United States Code (the "**Bankruptcy Code**"), but not direction, to (i) pay certain prepetition taxes, assessments, fees, and other charges in the ordinary course of business, including any such taxes, assessments, fees, and charges subsequently determined upon audit, or otherwise, to be owed (collectively, the "**Taxes and Fees**") in an

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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amount up to approximately $1,100,000.00 on an interim basis and in an amount up to approximately $1,650,000.00 on a final basis.

2. The Debtors further request that the Court (i) authorize all applicable financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to Taxes and Fees to the extent directed by the Debtors in accordance with this Motion and to the extent the Debtors have sufficient funds standing to their credit with such Bank, whether such checks were presented or electronic requests were submitted before or after the Petition Date (as defined herein), and (ii) authorize all Banks to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion, without any duty of further inquiry, and without liability for following the Debtors' instructions.

3. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

4. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties,

cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

5. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing*

an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018 (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Taxes and Fees

11. In the ordinary course of business, the Debtors collect, withhold and incur an assortment of Taxes and Fees that they remit periodically to various foreign, federal, state and local taxing, licensing, regulatory and other governmental authorities (each an "**Authority**" and collectively, the "**Authorities**").[3] The Taxes and Fees include (i) Sales and Use Taxes; (ii) Income and Franchise Taxes; (iii) Real Property Taxes; (iv) Personal Property Taxes; (v) Fees; and (vi) Other Foreign Taxes (each as defined and described in detail below).

[3] Due to the vast number of Authorities, a specific listing of the Authorities has been omitted from this Motion but may be obtained upon reasonable written request to the Debtors' proposed counsel.

12. Taxes and Fees incurred by a particular Debtor are generally paid directly by that Debtor, with the following limited exceptions. First, Debtors Skillsoft Corporation and Amber Holding Inc. file consolidated U.S. federal and certain state tax returns, and any combined income tax obligation of these entities is paid by Debtor Skillsoft Corporation. In certain states, Debtors Skillsoft Corporation and Amber Holding Inc. file separate state tax returns and each pays its separate income tax obligation. In addition, Debtor SumTotal Systems LLC is disregarded as an entity separate from Amber Holdings Inc. for U.S. federal tax purposes and all payments for Taxes and Fees owed by Debtor Amber Holding Inc. are remitted by Debtor SumTotal Systems LLC, of which Amber Holding Inc. is the sole member. Finally, Debtors Skillsoft Limited, Skillsoft Ireland Limited, Pointwell Limited, ThirdForce Group Limited, SSI Investments I Limited, SSI Investments II Limited, and SSI Investments III Limited (collectively, the "**MindLeaders VAT Group**") file returns for value-added taxes ("**VAT**") incurred by all seven entities using the VAT number of non-Debtor MindLeaders Ireland Learning Limited. Any resulting payments due for the MindLeaders VAT Group are remitted by Debtor Skillsoft Ireland Limited.

13. The Debtors seek to pay certain Taxes and Fees (including prepetition amounts owed with respect thereto) to, among other things, prevent Authorities from taking actions that may interfere with the Debtors' administration of their chapter 11 cases. Such interference could include the commencement of personal liability actions against directors, officers, and other key employees, the assertion of liens on the Debtors' property, or the assessment of penalties or significant interest on past-due taxes. In addition, non-payment of the Taxes and Fees may give rise to priority claims pursuant to section 507(a)(8) of the Bankruptcy Code. The Debtors also believe that certain of the Taxes and Fees collected prepetition are not property of the Debtors'

estates but, rather, are held in trust for the applicable Authorities. Accordingly, the relief requested herein is in the best interest of the Debtors' estates.

14. The Debtors estimate that approximately $1,100,000.00 of Taxes and Fees arising prior to the Petition Date will become due and payable within the first twenty-one (21) days of these chapter 11 cases (the "**Interim Period**").

A. Sales and Use Taxes

15. Certain of the Debtors incur or collect from customers a variety of national, state, and local sales taxes, gross receipts taxes, and similar obligations in connection with the operation of their businesses (collectively, the "**Sales Taxes**"). Sales Taxes are generally established by the applicable Authority as a percentage of the retail price of the good purchased or as a percentage of gross sales.

16. Certain of the Debtors also incur use taxes on account of the purchase of various inventory, supplies, or other goods utilized by the Debtors in the ordinary course of business (collectively, the "**Use Taxes**" and, together with the Sales Taxes, the "**Sales and Use Taxes**"). Use Taxes typically arise if a supplier does not have business operations in the state in which it is supplying goods and, therefore, does not charge sales tax on goods that are otherwise taxable to the purchaser.

17. As a general matter, the Debtors are required to remit Sales and Use Taxes to the applicable Authorities on a monthly or quarterly basis, depending on the jurisdiction. On average, the Debtors remit approximately $478,000.00 per month in aggregate Sales and Use Taxes. The Debtors estimate that, as of the Petition Date, they owe approximately $230,000.00 in Sales and Use Taxes, approximately $187,000.00 of which will become due and payable within the Interim Period. Sales and Use Taxes collected by the Debtors enjoy priority status pursuant to

section 507(a)(8)(C) of the Bankruptcy Code, and in most cases, are held in trust for the applicable Authorities. Failure to remit payment for such liabilities may result in personal liability for the Debtors' directors and officers.

B. Income and Franchise Taxes

18. Certain countries, states and localities where the Debtors operate require that the Debtors pay income or corporate taxes ("**Income Taxes**"). Income Taxes are generally calculated as a percentage of net income (the difference between gross receipts and expenses, after accounting for additional write-offs). Such Income Taxes, if unpaid, would enjoy priority status under section 507(a)(8)(A) of the Bankruptcy Code. Moreover, in certain states, the Debtors' directors and officers may have personal liability for failure to timely pay Income Taxes. On average, the Debtors remit approximately $1,064,000.00 in aggregate Income Taxes per year, paid in quarterly installments based on estimated results. The Debtors estimate that, as of the Petition Date, they have accrued approximately $716,000.00 in Income Taxes, approximately $694,000.00 of which will become due and payable during the Interim Period.

19. Debtor Skillsoft Corporation incurs franchise taxes assessed by the State of New Hampshire ("**Franchise Taxes**"). Franchise Tax obligations are calculated as a percentage of total compensation, interest and dividends paid and are generally remitted by the Debtors on an annual basis in quarterly installments. On average, the Debtors remit approximately $417,000.00 per year in aggregate Franchise Taxes. The Debtors estimate that, as of the Petition Date, they owe approximately $51,000.00 in Franchise Taxes, $51,000.00 of which will become due and payable during the Interim Period. Failure to make payment on the Franchise Taxes could lead to the assessment of penalties against the Debtors, thereby depleting the value of the Debtors' estates unnecessarily.

C. Real and Personal Property Taxes

20. State and local laws in many of the jurisdictions where the Debtors operate generally grant the applicable Authorities the power to levy property taxes against the Debtors' leased real property and the Debtors' personal property (the "**Real Property Taxes**" and "**Personal Property Taxes**," respectively). Real Property Taxes and Personal Property Taxes have priority pursuant to section 507(a)(8)(B) of the Bankruptcy Code and may create a lien on or security interest in the property so taxed.

21. Debtor Skillsoft Ireland Limited is liable for Real Property Tax obligations incurred on account of its occupancy of leased real property in Dublin, Ireland. Such payments are made to the applicable Authority on an annual basis, in quarterly installments. On average, the Debtors remit approximately $73,000.00 per year in aggregate Real Property Taxes. Debtor Skillsoft Ireland Limited estimates that, as of the Petition Date, it has accrued approximately $38,000.00 in Real Property Taxes, $38,000.00 of which will become due and payable during the Interim Period.

22. The Debtors generally remit Personal Property Taxes in quarterly installments. On average, the Debtors pay approximately $250,000.00 in aggregate Personal Property Taxes per year. Although the Debtors believe that they are current with respect to their payment of Personal Property Taxes, the Debtors estimate that, as of the Petition Date, they have accrued approximately $23,000.00 in Personal Property Taxes, approximately none of which will become due and payable during the Interim Period.

D. Fees

23. Applicable federal, state, and local laws and regulations require certain of the Debtors to pay fees for a wide range of business licenses and permits, as well as for filing

annual reports where required by the applicable Authority (collectively, the "**Fees**"). The method for calculating Fees and the deadlines for paying such amounts varies by jurisdiction. On average, the Debtors pay approximately $13,000.00 in aggregate Fees per year. As of the Petition Date, the Debtors estimate that they have accrued approximately $5,000.00 in aggregate Fees, approximately $1,000.00 of which will become due and payable within the Interim Period. Failure to pay the Fees where required by applicable law could impede the Debtors' ability to operate in some jurisdictions where they do business, thereby leading to harm to the Debtors' estates well in excess of the relatively small quantum of Fees owed.

E. Other Foreign Taxes

24. In addition to their U.S. operations, the Debtors transact business in numerous jurisdictions around the globe. In connection with such foreign operations, certain of the Debtors collect, withhold or incur VAT and goods and services taxes owed to Authorities in Canada, Ireland and the United Kingdom (collectively, "**Other Foreign Taxes**"). The Debtors remit such taxes on a monthly or quarterly basis, depending on jurisdiction. The Debtors estimate that, as of the Petition Date, they have accrued approximately $550,000.00 in Other Foreign Taxes, approximately $85,000.00 of which will become due and payable during the Interim Period.

Relief Requested Should Be Granted

25. Ample cause exists to authorize the payment of the Taxes and Fees, including that (i) failure to pay the Taxes and Fees may interfere with the Debtors' continued operations; (ii) certain of the Taxes and Fees may not be property of the Debtors' estates; (iii) failure to pay prepetition Property Taxes may increase the scope of secured and priority claims held by the applicable Authorities against the Debtors' estates; and (iv) the Court has authority to grant the requested relief under sections 105(a) and 363(b) of the Bankruptcy Code.

A. Failure to Pay the Taxes and Fees Could Materially Impair the Debtors' Reorganization Efforts

26. Nonpayment of the Taxes and Fees could cause certain Authorities to take adverse action against the Debtors or their estates, including asserting liens on the Debtors' assets or seeking to lift the automatic stay, which could impose significant costs on the Debtors' estates. Additionally, failure to pay the Taxes and Fees may jeopardize the Debtors' maintenance of good standing to operate in the jurisdictions in which they do business. For example, Authorities could impose penalties on, and charge the Debtors accrued interest, for their failure to pay certain Taxes and Fees. Continued non-payment could result in tax levies. Neither the Debtors' businesses nor their chapter 11 strategy can afford to endure such needless setbacks.

27. In addition, failure to pay certain Taxes and Fees could subject the Debtors' officers and directors to lawsuits or prosecution during the pendency of these chapter 11 cases. The dedicated and active participation of the Debtors' directors, officers, and other employees is not only integral to the Debtors' continued, uninterrupted operations, but also essential to the orderly administration of these chapter 11 cases. The threat of a lawsuit or criminal prosecution and any ensuing liability could distract the Debtors and their personnel from important tasks, to the detriment of all parties in interest.

B. Certain of the Taxes and Fees May Not Be Property of the Debtors' Estates

28. Some of the Taxes and Fees may constitute "trust fund" taxes, which the Debtors are required to collect and hold in trust for payment to the applicable Authorities. Section 541(d) of the Bankruptcy Code provides, in relevant part, as follows:

> Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such

> property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

29. If the Debtors have collected or hold Taxes and Fees in trust for payment to the Authorities, such funds do not constitute property of the Debtors' estates. *See, e.g.*, *Begier v. I.R.S.*, 496 U.S. 53, 60–62 (1990) (holding that excise and withholding taxes are property held by a debtor in trust for another and, as such, are not property of the debtor's estate); *Shank v. Walsh, State Dept. of Revenue (In re Shank)*, 792 F.2d 829, 833 (9th Cir. 1986) (sales tax required by state law to be collected by sellers from their customers is a "trust fund" tax and not released by bankruptcy discharge); *DeChiaro v. N.Y. State Tax Comm'n*, 760 F.2d 432, 435–36 (2d Cir. 1985) (same); *City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 96 (3d Cir. 1994) (finding that withholding taxes were subject to a trust); *In re Am. Int'l Airways, Inc.*, 70 B.R. 102, 103 (Bankr. E.D. Pa. 1987) (holding that funds held in trust for federal excise and withholding taxes are not property of the debtor's estate). The Debtors, therefore, generally do not have an equitable interest in such funds, and they should be permitted to pay the applicable Taxes and Fees to the Authorities as they become due.

C. Certain of the Taxes and Fees May be Secured or Entitled to Priority Treatment

30. The Debtors' failure to pay certain of the Taxes and Fees may give rise to secured or priority claims in favor of the affected Authorities. In fact, the creation and perfection of such a lien may not violate the automatic stay—even if the lien arises under applicable law for taxes due after the Petition Date. *See* 11 U.S.C. § 362(b)(18) (automatic stay does not apply to "the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition"); *see also In re*

Gifaldi, 207 B.R. 54, 56 n.1 (Bankr. W.D.N.Y. 1997) (noting that section 362(b)(18) reversed case law that had held that the creation of a statutory lien for *ad valorem* property taxes violated the automatic stay). Similarly, many of the claims at issue here are entitled to priority treatment under the Bankruptcy Code. *See* 11 U.S.C. § 507(a)(8). Thus, the Debtors' requested relief will not prejudice the recovery of junior creditors but, instead, will benefit all parties in interest by reducing the quantum of secured or priority claims that might otherwise accrue interest during the pendency of these proceedings. *See* 11 U.S.C. §§ 506(b), 511(a); *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241–43 (1989) (nonconsensual lienholders may receive interest on their claims under section 506(b) of the Bankruptcy Code).

D. Payment of the Taxes and Fees Is Warranted Under Section 363(b)(1) of the Bankruptcy Code and Doctrine of Necessity

31. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. *See* 11 U.S.C. § 363(b)(1). Section 363(b) provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate…." To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *see also In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987).

32. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this

title." 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code "contains an implied duty of the debtor-in-possession" to "protect and preserve the estate, including an operating business' going-concern value," on behalf of a debtor's creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232–33 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.").

33. Further, in a long line of well-established cases, courts consistently have permitted payment of prepetition obligations where such payment is necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of the continuance of [crucial] business relations"); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285–86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

34. In addition, the Court may rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the payment of prepetition

claims when such payment is essential to the continued operation of a debtor's business. *See*, *e.g.*, *In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides statutory basis for payment of prepetition claims under the doctrine of necessity particularly when such payment is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

35. The relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. The Debtors' failure to pay the Taxes and Fees could have a material adverse impact on their ability to operate in the jurisdictions where they do business and may lead to the imposition of liens, the accrual of interest charges, and unnecessary fees and penalties, thereby depleting the value of the Debtors' estates. These potential consequences threaten to irreparably impair the Debtors' ability to conduct a successful reorganization process and maximize the value of the Debtors' estates for the benefit of creditors. Authorizing the Debtors to pay prepetition amounts related to the Taxes and Fees is thus in the best interests of the Debtors, their estates, and their economic stakeholders.

E. Cause Exists to Authorize Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers

36. The Debtors have sufficient funds to pay the Taxes and Fees in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor-in-possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Taxes and Fees.

Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that the Court should authorize the Banks, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested herein, solely to the extent that the Debtors have sufficient funds standing to their credit with such Banks, and such Banks may rely on the representations of the Debtors without any duty of further inquiry and without liability for following the Debtors' instructions.

Reservation of Rights

37. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

38. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, failure to pay the Taxes and Fees may interfere with the Debtors' continued operations and chapter 11

strategy, and increase the scope of secured and priority claims held by the applicable Authorities against the Debtors' estates. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 6004(a) and (h)

39. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

40. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq., and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien

Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; (xii) the Banks; (xiii) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xiv) the Authorities (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

RICHARDS, LAYTON & FINGER, P.A.
Mark D. Collins (No. 2981)
Amanda R. Steele (No. 5530)
Christopher M. De Lillo (No. 6355)
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-and-

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (*pro hac vice* admission pending)
Robert J. Lemons (*pro hac vice* admission pending)
Katherine Theresa Lewis (*pro hac vice* admission pending)
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing the Debtors to pay the Taxes and Fees, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Taxes and Fees as such obligations become due to the Authorities, in amounts not to exceed $1,100,000.00 in the aggregate on an interim basis.

3. The Debtors are further authorized, but not directed, to continue paying the Taxes and Fees in accordance with practices and procedures that were in effect before the Petition Date.

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Taxes and Fees are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other

order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Taxes and Fees as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-Debtor affiliate except as permitted by the Approved Budget.

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any

agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

11. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

12. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com),

Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by [•], 2020 at 4:00 p.m. (prevailing Eastern Time).

13. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

14. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

FINAL ORDER (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**") for entry of orders (i) authorizing the Debtors to pay the Taxes and Fees, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis (the "**Hearing**"), if necessary; and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Taxes and Fees as such obligations become due to the Authorities, in amounts not to exceed $1,650,000.00 in the aggregate absent further order of this Court.

3. Each of the Banks at which the Debtors maintain their accounts relating to the payment of Taxes and Fees are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

4. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Taxes and Fees as set forth

herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

5. Notwithstanding anything in the Motion or this Final Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Final Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Final Order to, or on behalf of, a non-Debtor affiliate except as permitted by the Approved Budget.

6. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

7. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

8. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB DD

Interim Order (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 3**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO PAY CERTAIN PREPETITION TAXES AND FEES, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of orders (i) authorizing the Debtors to pay the Taxes and Fees, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations on account of the Taxes and Fees as such obligations become due to the Authorities, in amounts not to exceed $1,100,000.00 in the aggregate on an interim basis.

3. The Debtors are further authorized, but not directed, to continue paying the Taxes and Fees in accordance with practices and procedures that were in effect before the Petition Date.

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the Taxes and Fees are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other

order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of the Taxes and Fees as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-Debtor affiliate except as permitted by the Approved Budget.

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any

agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

11. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

12. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com),

Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**.

13. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

14. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB EE

Motion of Debtors for Entry of Interim and Final Orders (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Service, and (IV) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "**Bankruptcy Code**"), the Debtors request entry of orders (i) approving the Debtors' proposed form of adequate assurance of payment to utility providers,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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(ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting utility providers from altering, refusing, or discontinuing utility service on account of the commencement of these chapter 11 cases and/or outstanding prepetition invoices, and (iv) granting related relief.

2. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit C** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013–1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. On the date hereof (the "**Petition Date**"), the Debtors each commenced with the Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession

pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. Contemporaneously herewith, the Debtors have filed with the Court a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

6. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

7. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

8. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

9. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases;*

(VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018 (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Debtors' Utilities

A. Utility Providers

10. In the ordinary course of business, the Debtors incur utility expenses, including electricity, natural gas, water, sewage, telecommunications, and waste services. The Debtors make utility payments in one of two ways, (i) by direct payment to a utility provider, or (ii) via a landlord through rent payments. Approximately 48 utility providers (collectively, the "**Utility Providers**") provide services to the Debtors, including those entities identified on **Exhibit B** hereto (the "**Utility Service List**").[3]

11. On average, the Debtors spend approximately $138,540.00 per month on utility costs and estimate that, as of the Petition Date, approximately $138,540.00 worth of prepetition utility costs are outstanding.

12. Preserving utility services on an uninterrupted basis is essential to the Debtors' ongoing operations. The Debtors maintain their corporate U.S. headquarters in Nashua,

[3] "Utility Providers" used herein does not include any utility provider paid through rent payments. The Debtors reserve the right to amend or supplement the Utility Service List to include any Utility Provider omitted. The inclusion of any entity on the Utility Service List is not an admission that such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve their rights to dispute any such characterization.

New Hampshire with additional offices in Boston, Massachusetts, Burlington, Massachusetts, Norwood, Massachusetts, Gainesville, Florida, Scottsdale, Arizona, Des Moines, Iowa, Parsippany, New Jersey, Knoxville, Tennessee, Columbus, Ohio and Rochester, New York, and any interruption in utility services – even for a brief period of time – would seriously disrupt the Debtors' ability to continue operations and service their customers. Such a result could seriously jeopardize the Debtors' restructuring efforts and, ultimately, creditor recoveries.

B. Proposed Adequate Assurance

13. The Debtors intend to pay postpetition obligations owed to the Utility Providers in a timely manner. The Debtors expect that their cash on hand, plus cash flows from operations and their proposed use of cash collateral and debtor-in-possession financing will be sufficient to pay postpetition obligations related to their utility services in the ordinary course of business.

14. Pursuant to section 366(c)(2) of the Bankruptcy Code, a utility may alter, refuse, or discontinue a debtor's utility service if the utility does not receive "adequate assurance of payment" for postpetition utility services from the debtor within thirty (30) days after the commencement of the debtor's chapter 11 case. Section 366(c)(1)(A) of the Bankruptcy Code defines "assurance of payment" of postpetition charges as "(i) a cash deposit; (ii) a letter of credit; (iii) a certificate of deposit; (iv) a surety bond; (v) a prepayment of utility consumption; or (vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee." 11 U.S.C. § 366(c)(1)(A).

15. As noted above, the Debtors intend to pay all postpetition obligations owed to the Utility Providers in a timely manner and have sufficient funds to do so. Nevertheless, to provide the Utility Providers with adequate assurance pursuant to section 366 of the Bankruptcy Code, the Debtors propose depositing into an interest-bearing segregated account

for the benefit of the Utility Providers (the "**Adequate Assurance Account**") cash in an amount equal to two (2) weeks' payment for utility services, which amount will be calculated using the historical average for such payments over a period of time, ranging from one (1) to twelve (12) months depending on the length of the relationship with the respective Utility Providers (the "**Adequate Assurance Deposit**").

16. The Adequate Assurance Deposit will be held by the Debtors in the Adequate Assurance Account for the benefit of the Utility Providers identified on the Utility Service List during the pendency of these chapter 11 cases. As of the Petition Date, the Debtors estimate that the total amount of the Adequate Assurance Deposit will be approximately $69,270.00.

17. The Adequate Assurance Deposit may be adjusted by the Debtors if the Debtors terminate any of the utility services provided by a Utility Provider, make alternative arrangements with a Utility Provider for adequate assurance of payment, determine that an entity listed on the Utility Service List is not a "utility provider" as defined by section 366 of the Bankruptcy Code, or supplement the Utility Service List to include additional Utility Providers. The amount allocated for, and payable to, each Utility Provider will be limited to the amount set forth on **Exhibit B** as to each Utility Provider or as otherwise agreed by the Debtors and such Utility Provider.

18. The Debtors further request authority to cause the Adequate Assurance Deposit and any funds held in the Adequate Assurance Account to be returned to the Debtors upon the effective date of a chapter 11 plan or such other time as these cases may be closed without further order of the Court.

19. The Adequate Assurance Deposit, in conjunction with cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrates the Debtors' ability to pay for future utility services in the ordinary course of business (collectively, the "**Proposed Adequate Assurance**") and constitutes sufficient adequate assurance to the Utility Providers.

C. Proposed Adequate Assurance Procedures

20. If any Utility Provider believes it is entitled to additional or different adequate assurance based on individualized circumstances, it may follow the procedures described below and set forth in more detail in the Proposed Orders (the "**Adequate Assurance Procedures**"):[4]

a. The Debtors will mail a copy of this Motion and the Proposed Interim Order, which include the proposed Adequate Assurance Procedures, to each Utility Provider within two (2) business days after entry of the Proposed Interim Order.

b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within twenty (20) calendar days after entry of the Proposed Interim Order; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by all of the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A.,

[4] To the extent that there are any inconsistencies or discrepancies between the summary of the Adequate Assurance Procedures in this Motion and the Adequate Assurance Procedures as set forth in the Proposed Orders, the Proposed Orders control in all respects. Capitalized terms used but not otherwise defined in the following summary shall have the respective meanings ascribed to such terms in the Proposed Orders.

920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but shall not be limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider shall be prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to

any of the Debtors by the Utility Provider, or any objections to the Proposed Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of the Proposed Orders, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

D. Subsequent Modifications

21. The Debtors have made a good-faith effort to identify their Utility Providers and include them on the Utility Service List. Nonetheless, to the extent that the Debtors subsequently identify additional Utility Providers, the Debtors seek authority, in their sole discretion, to amend the Utility Service List to add or remove any Utility Provider before or after entry of the order by the Court. Any such amended Utility Service List shall be filed with the Court. The Debtors further request that the Court's order on this Motion be deemed to apply to any such subsequently identified Utility Provider, regardless of when such Utility Provider is added to the Utility Service List. The Debtors will cause a copy of this Motion and any order hereon to be served on any such Utility Provider subsequently added to the Utility Service List and will deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider. Subsequently added Utility Providers shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

22. The Debtors request that the Court require any Utility Provider subsequently added to the Utility Service List that objects to the entry of an order granting this Motion to file with the Court and serve an objection in accordance with the Bankruptcy Rules, the Local Rules, and the Adequate Assurance Procedures.

23. The Debtors request that all Utility Providers, including Utility Providers subsequently added to the Utility Service List, be prohibited from altering, refusing or discontinuing utility services to the Debtors absent further order of the Court.

Relief Requested Should Be Granted

24. The Debtors respectfully submit that the Utility Providers will be adequately assured of payment for future services by the relief requested herein. Congress enacted section 366 of the Bankruptcy Code to protect debtors from utility service cutoffs upon a bankruptcy filing while providing utility companies with adequate assurance that the debtors would pay for postpetition services. *See* H.R. Rep. No. 95-595, at 350 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5963, 6306. Accordingly, section 366 of the Bankruptcy Code prohibits utilities from altering, refusing, or discontinuing services to a debtor solely on account of unpaid prepetition amounts for a period of 30 days after a chapter 11 filing.

25. Section 366(c) requires only that a utility's assurance of payment be "adequate." Courts recognize that adequate assurance of performance does not constitute an absolute guarantee of a debtor's ability to pay. *See, e.g.*, *Steinebach v. Tucson Elec. Power Co. (In re Steinebach)*, 303 B.R. 634, 641 (Bankr. D. Ariz. 2004) ("Adequate assurance of payment is not, however, absolute assurance . . . 'a Bankruptcy Court is not required to give a utility company the equivalent of a guarantee of payment, but must only determine that the utility is not subject to any unreasonable risk of non-payment for post-petition services.'") (quoting *In re Adelphia Bus. Solutions, Inc.*, 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002)); *see also In re Caldor, Inc.-NY*, 199 B.R. 1, 3 (S.D.N.Y. 1996) (section 366(b) "does not require an 'absolute guarantee of payment'") (citation omitted), *aff'd sub nom. Va. Elec. & Power Co., v. Caldor, Inc.-NY*, 117 F.3d 646 (2d Cir. 1997).

26. In this analysis, Courts have recognized that, in determining the requisite level of adequate assurance, bankruptcy courts should "focus 'upon the need of the utility for assurance, and to require that the debtor supply *no more than that*, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.'" *Va. Elec. & Power Co.*, 117 F.3d at 650 (citation omitted); *see also In re Penn. Cent. Transp. Co.*, 467 F.2d 100, 103–04 (3d Cir. 1972) (affirming bankruptcy court's ruling that utility deposits were not necessary where such deposits likely would "jeopardize the continuing operation of the [debtor] merely to give further security to suppliers who already are reasonably protected"). Indeed, "[c]ourts will approve an amount that is adequate enough to insure against unreasonable risk of nonpayment, but are not required to give the equivalent of a guaranty of payment in full." *In re The Great Atl. & Pac. Tea Co.*, Case No. 11-CV-1338 (CS), 2011 WL 5546954, at *5 (S.D.N.Y. Nov. 14, 2011) (citations omitted). In fact, there is nothing to prevent a court from deciding that, on the facts of the case before it, the amount required of the debtor to provide adequate assurance of payment to a utility company should be nominal or even zero. *See, e.g.*, *In re Pac-West Telecomm., Inc.*, Case No. 07-10562 (BLS) (Bankr. D. Del. May 2, 2007) (ECF No. 39) (approving adequate assurance in the form of one-time supplemental prepayment to each utility company equal to prorated amount of one week's charge).

27. Based upon the foregoing, the Debtors believe that most, if not all, of their Utility Providers have adequate assurance of payment even without recourse to the Adequate Assurance Deposit. The Debtors anticipate having sufficient resources to pay, and intend to pay, all valid postpetition obligations for utility services in a timely manner. In addition, the Debtors' reliance on utility services for the operation of their businesses and preservation of value of their assets provides them with a powerful incentive to stay current on their utility obligations. These

factors, which the Court may consider when determining the amount of any adequate assurance payments, justify finding that the Debtors are not required to make any additional adequate assurance payments in these chapter 11 cases. In light of the foregoing, the Debtors respectfully submit that the Proposed Adequate Assurance is more than sufficient to assure the Utility Providers of future payment.

28. Absent the approval of the Adequate Assurance Procedures, Utility Providers could discontinue service, without warning, thirty (30) days after the Petition Date, if they claim they have not yet received a "satisfactory" adequate assurance payment. Under the Adequate Assurance Procedures, however, any Utility Provider that fails to submit to the Adequate Assurance Notice Parties an Additional Assurance Request shall be deemed to consent to the Adequate Assurance Procedures and shall be bound by the order granting this Motion. *See In re Syroco, Inc.*, 374 B.R. 60, 62 (Bankr. D.P.R. Aug. 22, 2007) (a utility provider's lack of objection, response or counter-demand after receiving notice of hearing on a utilities motion, notice of interim order and notice of final hearing constitutes tacit acceptance of the debtor's proposed two-week cash deposit as adequate assurance of payment as such term is used in section 366 of the Bankruptcy Code).

29. The Adequate Assurance Procedures are necessary for the Debtors to effectuate their chapter 11 strategy without unnecessary and costly disruptions on account of discontinued utility services. If the Adequate Assurance Procedures are not approved, the Debtors likely will be confronted with and forced to address numerous requests by their Utility Providers at a critical time for their businesses. Moreover, the Debtors could be blindsided by a Utility Provider unilaterally deciding—on or after the 30th day following the Petition Date—that it is not adequately protected and, therefore, either is entitled to make an exorbitant demand for

payment to continue providing service or discontinue providing service to the Debtors altogether. Such an outcome could seriously jeopardize the Debtors' operations and their ability to maximize the value of their estates.

30. Under the circumstances of these cases, the Debtors believe that the establishment of a cash reserve in the form of the Adequate Assurance Deposit constitutes adequate assurance of payment under section 366(c) of the Bankruptcy Code.

31. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code "contains an implied duty of the debtor-in-possession" to "protect and preserve the estate, including an operating business' going-concern value," on behalf of a debtor's creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232-33 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.").

32. Based on the foregoing, the Debtors respectfully submit that the relief requested herein is necessary and appropriate, is in the best interest of the Debtors' estates, and should be granted in all respects.

Reservation of Rights

33. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity of any claim against the Debtors or their estates; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action that may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be, and should not be construed as, an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

34. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, preserving utility services on an uninterrupted basis is essential to the Debtors' ongoing operations. Even a brief interruption would seriously disrupt the Debtors' ability to continue operations and service their customers. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rule 6004(a) and (h)

35. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

36. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to WSFS, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court,

Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xiii) the Utility Providers identified on the Utility Service List (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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- and -

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Proposed Attorneys for Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

INTERIM ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order (i) approving the Debtors' proposed form of adequate assurance of payment for Utility Providers, (ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting Utility Providers from altering, refusing, or discontinuing utility service on account of the commencement of these chapter 11 cases and/or outstanding prepetition invoices,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

and (iv) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. Absent compliance with the procedures set forth in the Motion and this Interim Order, the Debtors' utility providers (the "**Utility Providers**") are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11

cases and/or any unpaid prepetition charges and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

3. Funds held in the Adequate Assurance Account and any Adequate Assurance Deposit shall be returned to the Debtors upon the effective date of a chapter 11 plan for the Debtors or such other time as these cases may be closed without further Court order; provided, that there are no outstanding disputes related to postpetition payments due.

4. The Adequate Assurance Deposit, in conjunction with the Debtors' cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrate the Debtors' ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**") and constitute sufficient adequate assurance to the Utility Providers.

5. The following Adequate Assurance Procedures are hereby approved in the entirety on an interim basis:

a. The Debtors will mail a copy of the Motion and this Interim Order, which include the Adequate Assurance Procedures, to each Utility Provider within two (2) business days after entry of this Interim Order.

b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within twenty (20) calendar days after entry of this Interim Order; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value upon the agreement of such Utility Provider.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by all of the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A.,

920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases and/or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve such its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but is not limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider is prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to

any of the Debtors by the Utility Provider, or any objections to the Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of this Interim Order, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

6. The Debtors are authorized, in their sole discretion, to amend the utility service list attached as **Exhibit B** to the Motion (the "**Utility Service List**") to add or delete any Utility Provider, and this Interim Order shall apply to any Utility Provider that is subsequently added to the Utility Service List. Any such amended Utility Service List shall be filed with the Court.

7. The inclusion of any entity in, or the omission of any entity from, the Utility Service List shall not be deemed an admission by the Debtors that such entity is or is not a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of this Interim Order on the subsequently added Utility Provider and deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider, and any such subsequently added entities shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

9. The Debtors may terminate the services of any Utility Provider and are immediately authorized to reduce the Adequate Assurance Deposit by the amount held on account of such terminated Utility Provider.

10. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

14. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

15. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq.

(katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon: (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by [●], 2020 at **4:00 p.m. (prevailing Eastern Time) on _____, 2020**.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

17. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Utility Service List

Type of Service	Office	Utility Name	Estimated 2 Weeks Spend	Security Deposit	Adequate Assurance Deposit ($USD)	Account Number	Address
Telecom	Gainesville	Acceleration	2,330	–	2,330	2502 SUMTOTAL	2837 NW 41st St., Unit 320 Gainesville, FL 32606
Gas	Belfast	Airtricity Gas Supply (NI) Ltd	80	–	80	154969-9	3rd Floor, Millennium House 17-25 Great Victoria Street Belfast BT 2 7BN United Kingdom
Telecom	Gainesville	AT&T	500	–	500	352 374-2929 001 1983	PO Box 105262 Atlanta, GA 30348
Telecom	Fredericton	Bell Aliant	4,910	–	4,910	0613960 4	PO Box 5555 Saint John, NB E2L 4V6 Canada
Telecom	Bracknell	British Telecom	4,770	–	4,770	F01134	BT Payment Services Ltd BT Telephone Centre Durham DH98 1BT United Kingdom
Telecom	Parsippany	Cablevision Lightpath, Inc	850	–	850	46703	PO Box 360111 Pittsburgh, PA 15251
Waste Removal	Rochester	Casella Waste Services, Inc.	100	–	100	91-79311 8	PO Box 1372 Williston, VT 05495
Telecom	Bracknell	Centrilogic Inc (UK)	340	–	340	SKIL-2019030-GB	5 Arlington Square Bracknell RG12 1WA United Kingdom
Telecom	Belfast	CenturyLink	2,730	–	2,730	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Boston	CenturyLink	850	–	850	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Burlington	CenturyLink	280	–	280	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187

Telecom	Canton	CenturyLink	10	–	10	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Des Moines	CenturyLink	1,560	–	1,560	85035657	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Des Moines	CenturyLink	1,010	–	1,010	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Dublin	CenturyLink	2,030	–	2,030	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Fredericton	CenturyLink	3,880	–	3,880	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Gainesville	CenturyLink	1,620	–	1,620	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Hyderabad-Maximus	CenturyLink	4,230	–	4,230	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Nashua 300	CenturyLink	7,100	–	7,100	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Norwood	CenturyLink	1,130	–	1,130	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Paris	CenturyLink	1,170	–	1,170	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Parsippany	CenturyLink	360	–	360	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Rochester	CenturyLink	2,050	–	2,050	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187
Telecom	Scottsdale	CenturyLink	3,570	–	3,570	66742548	Attn: Business Services PO Box 52187 Phoenix, AZ 85072-2187

Telecom	Dublin	Colt Technologies	1,640	–	1,640	194872	Units 15-16 Docklands Innovations Park East Wall Rd Dublin 3, Ireland
Telecom	Boston	Comcast	110	–	110	8773 10 312 0571518	PO Box 70219 Philadelphia, PA 19176
Telecom	Boston condo	Comcast	20	–	20	8773103120810759	Comcast Cable One Comcast Center 1701 JFK Boulevard Philadelphia, PA 19103
Telecom	Burlington	Comcast	1,100	–	1,100	939750374	PO Box 37601 Philadelphia, PA 19101
Telecom	Knoxville	Comcast	1,490	–	1,490	939068272	PO Box 37601 Philadelphia, PA 19101
Telecom	Nashua 300	Comcast	230	–	230	8773 20 081 1848591	PO Box 70219 Philadelphia, PA 19176
Telecom	Nashua 300	Consolidated Communications	2,660	–	2,660	125 342 7284 4	PO Box 11021 Lewiston, ME 04243
Telecom	Scottsdale	Cox Business	60	–	60	001 8501 201078502	PO Box 53249 Phoenix, AZ 85072
Telecom	Dublin	EIRCOM	50	–	50	31486046	Po Box 43 Kilrush, Co Clare, Ireland
Electricity	Dublin	Electric Ireland	2,430	–	2,430	950554808	St Margarets Road Dublin 11, Ireland
Electricity	Boston	Eversource	490	1,225	0	2565 915 1044	PO Box 56007 Boston, MA 02205
Telecom	Rochester	Frontier Communications of America	1,460	–	1,460	585-100-2382- 082517-6	PO Box 740407 Cincinnati, OH 45274
Telecom	Gainesville	Gainesville Regional Utilities	1,480	–	1,480	2000-1283-6909	PO Box 147051 Gainesville, FL 32614
Telecom	Des Moines	ISI Telemanagement Solutions Inc	330	–	330	C00000STS1	PO Box 95079 Chicago, IL 60694-5079
Gas	Rochester	Leo J Roth Corp	340	–	340	ELE002	841 Holt Road Webster, NY 14580
Telecom	Boston	Lightower Fiber Networks I LLC	590	–	590	B11725 SKILLS001	PO Box 27135 New York, NY 10087

Telecom	Belfast	PLUSNET PLC	30	–	30	00000902562	Technology Buildings Terry Street Sheffield S9 2BU United Kingdom
Telecom	Belfast	Rainbow Communications	220	–	220	RT006229	286 Ballygown Road Belfast BT23 6BL United Kingdom
Telecom	Canton	Regus Management Group LLC	170	–	170	7920780	PO Box 842456 Dallas, TX 75284
Telecom	Dublin	Telcom Limited	1,790	–	1,790	Skillsoft Ireland Limited	D9 Nutgrove Office Park Rathfarnham Dublin 14, Ireland
Telecom	Gainesville	Verizon Business	4,760	–	4,760	18231X25	PO Box 15043 Albany, NY 12212-5043
Telecom	Parsippany	Verizon Business	680	–	680	9150252192X25	PO Box 15043 Albany, NY 12212-5043
Waste Removal	Rochester	Waste Management of NY-RO	170	–	170	13-73760-63007	PO Box 13648 Philadelphia, PA 19101

Exhibit C

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

FINAL ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order (i) approving the Debtors' proposed form of adequate assurance of payment for Utility Providers, (ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting Utility Providers from altering, refusing, or discontinuing utility service on account of the commencement of these chapter 11 cases and/or outstanding prepetition invoices, and (iv) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis, if necessary (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. Absent compliance with the procedures set forth in the Motion and this Final Order, the Debtors' utility providers (the "**Utility Providers**") are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid prepetition charges and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

3. Funds held in the Adequate Assurance Account and any Adequate Assurance Deposit shall be returned to the Debtors upon the effective date of a chapter 11 plan for the Debtors or such other time as these cases may be closed without further Court order; provided, that there are no outstanding disputes related to postpetition payments due.

4. The Adequate Assurance Deposit, in conjunction with the Debtors' cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrate the Debtors' ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**") and constitute sufficient adequate assurance to the Utility Providers.

5. The following Adequate Assurance Procedures are hereby approved in the entirety:

a. The Debtors will mail a copy of the Motion and this Final Order, which include the Adequate Assurance Procedures, to each Utility Provider within three (3) business days after entry of this Final Order.

b. The Debtors have deposited the Adequate Assurance Deposit in the Adequate Assurance Account; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value upon the agreement of such Utility Provider.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A., 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. Any Additional Assurance Request must be made and actually received by the Debtors. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases and/or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve such its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but is not limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider is prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to any of the Debtors by the Utility Provider, or any objections to the Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of this Final Order, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

6. The Debtors are authorized, in their sole discretion, to amend the utility service list attached as **Exhibit B** to the Motion (the "**Utility Service List**") to add or delete any Utility Provider, and this Final Order shall apply to any Utility Provider that is subsequently added to the Utility Service List. Any such amended Utility Service List shall be filed with the Court.

7. The inclusion of any entity in, or the omission of any entity from, the Utility Service List shall not be deemed an admission by the Debtors that such entity is or is not a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of this Final Order on the subsequently added Utility Provider and deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider, and any such subsequently added entities shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

9. The Debtors may terminate the services of any Utility Provider and are immediately authorized to reduce the Adequate Assurance Deposit by the amount held on account of such terminated Utility Provider.

10. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or

rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

13. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

15. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB FF

Interim Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Providers, (II) Establishing Procedures for Determining Adequate Assurance of Payment for Future Utility Services, (III) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 6**

INTERIM ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "**Bankruptcy Code**"), for entry of an order (i) approving the Debtors' proposed form of adequate assurance of payment for Utility Providers, (ii) establishing procedures for determining adequate assurance of payment for future utility services, (iii) prohibiting Utility Providers from altering, refusing, or discontinuing utility service on account of the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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commencement of these chapter 11 cases and/or outstanding prepetition invoices, and (iv) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the relief sought in the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. Absent compliance with the procedures set forth in the Motion and this Interim Order, the Debtors' utility providers (the "**Utility Providers**") are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11

cases and/or any unpaid prepetition charges and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

3. Funds held in the Adequate Assurance Account and any Adequate Assurance Deposit shall be returned to the Debtors upon the effective date of a chapter 11 plan for the Debtors or such other time as these cases may be closed without further Court order; provided, that there are no outstanding disputes related to postpetition payments due.

4. The Adequate Assurance Deposit, in conjunction with the Debtors' cash on hand, cash flow from operations, and their proposed use of cash collateral and debtor-in-possession financing, demonstrate the Debtors' ability to pay for future utility services in the ordinary course of business (together, the "**Proposed Adequate Assurance**") and constitute sufficient adequate assurance to the Utility Providers.

5. The following Adequate Assurance Procedures are hereby approved in the entirety on an interim basis:

a. The Debtors will mail a copy of the Motion and this Interim Order, which include the Adequate Assurance Procedures, to each Utility Provider within two (2) business days after entry of this Interim Order.

b. The Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within twenty (20) calendar days after entry of this Interim Order; provided that to the extent any Utility Provider receives any other value from the Debtors as adequate assurance of payment, the Debtors may reduce the Adequate Assurance Deposit maintained in the Adequate Assurance Account on account of such Utility Provider by the amount of such other value upon the agreement of such Utility Provider.

c. Any Utility Provider seeking additional assurances of payment in the form of deposits, prepayments or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") so that it is actually received by all of the Adequate Assurance Parties (as defined below) at the following addresses: (i) Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, New Hampshire 03062 (Attn.: Gregory Porto); (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn.: Robert J. Lemons, Esq., Katherine Theresa Lewis, Esq., and Daniel R. Sotsky, Esq.); (iii) Richards, Layton & Finger, P.A.,

920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. and Amanda R. Steele, Esq.); and (iv) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.) (collectively, the "**Adequate Assurance Notice Parties**").

d. Any Additional Assurance Request must (i) be made in writing, (ii) set forth the location for which utility services are provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

e. If a Utility Provider fails to serve on the Adequate Assurance Notice Parties an Additional Assurance Request, such Utility Provider shall be (i) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (ii) prohibited from discontinuing, altering, or refusing service to, or discriminating against, the Debtors on account of the commencement of the Debtors' chapter 11 cases and/or any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.

f. Upon receipt of any Additional Assurance Request as provided herein, the Debtors shall promptly negotiate with such Utility Provider to resolve such its Additional Assurance Request.

g. The Debtors may, in their sole discretion and without further order of the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and may, in connection with any such agreement, in their sole discretion, provide a Utility Provider with additional adequate assurance of future payment, which may include, but is not limited to, cash deposits, payments of any outstanding prepetition balance due to the Utility Provider, prepayments or other forms of security, in each case, without further order of the Court.

h. If the Debtors are not able to reach a resolution with a Utility Provider that has submitted an Adequate Assurance Request, the Debtors will request a hearing before the Court to determine the adequacy of assurance of payment with respect to the Utility Provider (the "**Determination Hearing**") pursuant to section 366(c)(3) of the Bankruptcy Code.

i. Pending resolution of such dispute at the Determination Hearing, the relevant Utility Provider is prohibited from discontinuing, altering or refusing service to the Debtors on account of the commencement of these chapter 11 cases, any unpaid charges for prepetition services provided to

any of the Debtors by the Utility Provider, or any objections to the Adequate Assurance.

j. Absent compliance with the Adequate Assurance Procedures and the terms of this Interim Order, the Debtors' Utility Providers are prohibited from altering, refusing, or discontinuing service on account of the commencement of these chapter 11 cases and/or any unpaid charges for prepetition services provided to any of the Debtors and are deemed to have received adequate assurance of payment in accordance with section 366 of the Bankruptcy Code.

6. The Debtors are authorized, in their sole discretion, to amend the utility service list attached as **Exhibit B** to the Motion (the "**Utility Service List**") to add or delete any Utility Provider, and this Interim Order shall apply to any Utility Provider that is subsequently added to the Utility Service List. Any such amended Utility Service List shall be filed with the Court.

7. The inclusion of any entity in, or the omission of any entity from, the Utility Service List shall not be deemed an admission by the Debtors that such entity is or is not a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

8. For those Utility Providers that are subsequently added to the Utility Service List, the Debtors will serve a copy of this Interim Order on the subsequently added Utility Provider and deposit two (2) weeks' worth of estimated utility costs in the Adequate Assurance Account for the benefit of such Utility Provider, and any such subsequently added entities shall make an Additional Assurance Request in accordance with the Adequate Assurance Procedures.

9. The Debtors may terminate the services of any Utility Provider and are immediately authorized to reduce the Adequate Assurance Deposit by the amount held on account of such terminated Utility Provider.

10. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

11. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

14. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

15. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq.

(katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon: (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020** at **4:00 p.m. (prevailing Eastern Time)**.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

17. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB GG

Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief

Docket #0009 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, the Debtors request, pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and consistent with the unimpaired treatment of General Unsecured Claims under the Prepackaged Plan (each as defined herein), filed contemporaneously herewith, the Debtors request authority to pay in full in

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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their discretion and in the ordinary course of business, allowed prepetition claims of creditors (the "**Trade Creditors**") that provide goods or services related to the Debtors' operations (collectively, the "**Trade Claims**"). The Debtors estimate the aggregate amount of the Trade Claims is approximately $22.0 million. The Debtors further request that this Court confirm administrative priority status of all undisputed obligations of the Debtors owing to vendors and suppliers arising from the postpetition delivery of goods and provision of services ordered before the Petition Date under the Prepetition Purchase Orders (as defined herein) and authorize the Debtors to pay such obligations in the ordinary course of business.

2. The Debtors further request that the Court (i) authorize all applicable financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing to the extent directed by the Debtors in accordance with this Motion and to the extent the Debtors have sufficient funds standing to their credit with such Bank, whether such checks were presented or electronic requests were submitted before or after the Petition Date (as defined herein), and (ii) authorize all Banks to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion, without any duty of further inquiry, and without liability for following the Debtors' instructions.

3. No party in interest will be prejudiced by the relief requested by this Motion because the Trade Claims are unimpaired under the Prepackaged Plan and will be paid in full. Thus, the relief requested herein seeks to alter only the timing, not the amount or priority, of such payments. Moreover, authority to pay the Trade Claims in the ordinary course of business is necessary to avoid the risk of key vendors and service providers withholding essential services or refusing to sell goods to the Debtors

4. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

5. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

6. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

7. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Bankruptcy Rules.

8. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.[2]

9. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

10. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

11. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the

benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

The Debtors' Business Model and Trade Creditors

A. The Debtors' Business Model

12. The Debtors are a global leader in corporate learning, delivering cutting-edge technology and engaging content that drives business impact for modern enterprises. The success of their businesses derives in large part from their ability to provide customers with a broad offering of products and services, including a dynamic array of learning content, an intelligent learning experience platform, and its unique SumTotal talent development suite. The market for these goods and services is, without question, highly competitive and fast-changing as technologies and customer preferences (and demands) evolve on a near-continuous basis. The Debtors must be able to respond quickly to movements in market trends and customer preferences, such that their customer base remains confident that the Debtors are providing the most up to date goods and services as efficiently as possible. Importantly, the Trade Creditors are integrated into the Debtors' highly sophisticated and customized supply chain, making it difficult for the Debtors to replace them in a timely manner. The Debtors' inability or failure to meet customer expectations immediately at the outset of these chapter 11 cases in this regard could be fatal to their restructuring efforts.

13. The Trade Creditors provide the Debtors with the essential goods and services that facilitate these and other of their operations. The Trade Claims include claims of the Debtors' (i) content providers (ii) datacenters providing essential hosting services and uninterrupted network connection for the Debtors' various online platforms, (iii) software vendors that provide the Debtors with licenses to integrate certain software applications into their learning products, (iv) marketing service providers, (v) providers of IT support and digital security for

software vulnerability and malware protection, and (vi) business services and other general operational expenses that are not addressed in other first day motions.

B. The Debtors' Trade Claims

14. The Debtors incur numerous fixed, liquidated, and undisputed payment obligations to the Trade Creditors in the ordinary course of business. The Trade Claims are comprised of (a) prepetition claims entitled to statutory priority under section 503(b)(9) of the Bankruptcy Code (the "**503(b)(9) Claims**," and the claimants asserting 503(b)(9) Claims, the "**503(b)(9) Claimants**"), (b) non-priority, prepetition claims held by Critical Vendors (as defined herein, and such claims, the "**Critical Vendor Claims**") totaling approximately $15,300,000, and (c) non-priority prepetition claims held by ordinary course professionals and all other trade claimants (the "**Non-Priority Trade Claims**") totaling approximately $6,700,000. For the 12 months before the Petition Date, the Debtors' average monthly payment to Trade Creditors was approximately $23,600,000. The Debtors estimate that, as of the Petition Date, they owe a total of approximately $22,000,000 on account of undisputed Trade Claims. The Debtors estimate that approximately $18,000,000 of that amount will become due within the interim period before a final hearing on this Motion (the "**Interim Period**"). The following table summarizes the types of Trade Claims held by the Trade Creditors, and provides the Debtors' estimate of the total amount of each type of Trade Claim outstanding as of the Petition Date, including estimates for the portion of such total coming due within the Interim period:

Category	Description of Claims	Estimated Total Amount Outstanding as of Petition Date	Estimated Amount Due Within Interim Period
503(b)(9) Claims[3]	Claims entitled statutory priority under section 503(b)(9) of the Bankruptcy Code.	N/A	N/A
Critical Vendor Claims	Claims of certain Trade Creditors that are essential to maintaining the going concern value of the Debtors' enterprise.	$15.3 million	$12.5 million
Non-Priority Trade Claims	All other Trade Claims incurred in the ordinary course of business.	$6.7 million	$5.5 million
Total Trade Claims:		**$22.0 million**	**$18.0 million**

15. The Debtors are not seeking to pay these amounts immediately or in one lump sum; rather, the Debtors intend to pay these amounts as they become due and payable in the ordinary course of the Debtors' business. Concurrently with the filing of this Motion, the Debtors have filed the *Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Case Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**DIP Motion**"), which, in addition to the cash generated by the Debtors' business, will provide the necessary additional liquidity for the Debtors to continue operations in the ordinary course of business. As set forth in the budget (the "**Budget**") annexed to the DIP Motion, the Debtors' proposed expenditures set forth in the Budget include payment of the Trade Claims the Debtors are seeking authority to pay pursuant to this Motion. Accordingly, the Debtors believe they will have ample liquidity to pay the Trade Claims in the ordinary course during the administration of these chapter 11 cases.

[3] As noted herein, the Debtors do not believe any prepetition claims are entitled to statutory priority under section 503(b)(9) of the Bankruptcy Code, but are seeking relief to pay any such claims in the ordinary course to the extent they arise.

Conditions to Payment of Trade Claims in the Ordinary Course

16. The Debtors request authority to pay all Trade Claims on the following terms and conditions:

a. The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to the Proposed Orders.

b. Before making a payment to a creditor under the Proposed Orders, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for less than their face amount without further notice or hearing.

Treatment of Trade Claims Under the Prepackaged Plan

17. The goal of the Debtors' prepackaged chapter 11 cases is to deleverage the Debtors' balance sheet with minimal interruption of their business operations. Disruption to the Debtors' timely receipt of necessary goods and services could negatively impact the Debtors' operations and ability to meet their commitments in the ordinary course, which would harm their businesses, damage their market reputation, and possibly result in a loss of customers. Accordingly, it is imperative that the Debtors maintain positive relationships with the providers of the goods and services essential to their business operations throughout these cases. The Debtors negotiated the terms of the Prepackaged Plan with this goal in mind: under the Prepackaged Plan, the legal, equitable, and contractual rights of Trade Creditors must be unimpaired to avoid disruption to the normal operations of the business during the pendency of these chapter 11 cases. Accordingly, the relief requested in this Motion furthers the Debtors' overarching restructuring goals to maximize the value of the estates without prejudice to the Debtors' stakeholders, all in accordance with the Prepackaged Plan.

18. Furthermore, substantially all executory contracts and unexpired leases to which any of the Debtors are parties, and which have not expired by their own terms on or before the effective date of the date an order is entered confirming the Prepackaged Plan, shall be assumed

under the terms of the Prepackaged Plan. Any outstanding amounts owed under any executory contract or unexpired lease to be assumed under the Prepackaged Plan shall be paid or otherwise "cured" pursuant to section 365(b)(1) of the Bankruptcy Code.

Relief Requested Should Be Granted

A. Payment of Non-Priority Trade Claims Is Warranted Under Section 363(b)(1) of the Bankruptcy Code and Doctrine of Necessity

19. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. 11 U.S.C. § 363(b)(1). Section 363(b) provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *see also In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987); *In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that "[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task").

20. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. 11 U.S.C. § 1107(a). Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code "contains an implied duty of the debtor-in-possession" to "protect and preserve the estate, including an operating business' going-concern value," on behalf of a debtor's creditors and other

parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232–33 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.").

21. Further, in a long line of well-established cases, courts consistently have permitted payment of prepetition obligations where such payment is necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g.*, *Miltenberger v. Logansport, C. & S.W.R. Co., 106 U.S. 286, 312 (1882)* (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of the continuance of [crucial] business relations"); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285–86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

22. This "doctrine of necessity" functions in a chapter 11 reorganization as a mechanism by which the Court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. *See, e.g.*, *In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides statutory basis for payment of prepetition claims under the doctrine of necessity

particularly when such payment is necessary for the debtor's survival during chapter 11); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is standard for enabling a court to authorize payment of prepetition claims prior to confirmation of a reorganization plan).

23. It is a sound exercise of the Debtors' business judgment to pay the Trade Claims as they become due in the ordinary course of business because doing so will avoid value-destructive business interruption and will not prejudice the Debtors' other stakeholders. The Prepackaged Plan, which the Debtors' secured lenders have agreed to support and vote in favor of by the requisite voting majorities, provides for the full and uninterrupted payment of such claims. The goods and services provided by Trade Creditors are necessary for the continued, uninterrupted operation of the Debtors' businesses. The Debtors anticipate that failure to pay the Trade Claims as they become due is likely to result in many Trade Creditors refusing to provide essential goods and services or conditioning the delivery of such goods and services on compliance with onerous and commercially unreasonable terms.

24. Nonperformance by numerous Trade Creditors could materially disrupt the Debtors' business operations and jeopardize the continued viability of the Debtors' business and these cases to the detriment of all of the Debtors' stakeholders. In addition, because the Trade Creditors are already familiar with the Debtors' assets and business needs based on years of the Debtors' building relationships with such vendors, they are in the best position to provide the necessary goods and services to the Debtors, and are the most likely to do so on commercially reasonable terms. If certain of the Trade Creditors refuse to perform on their obligations, the Debtors may find it very difficult to locate replacement vendors of geographic or logistical scope necessary to support their operations, and indeed, may make it difficult to maintain business

operations. Therefore, even if it were possible to obtain replacement goods and services, doing so would likely cause substantial delay and significant costs.

25. Moreover, no party in interest will be prejudiced by the relief requested herein because the Trade Claims are unimpaired and will be paid in full under the Prepackaged Plan. The relief requested herein seeks to alter only the timing, not the amount or priority, of such payments. Furthermore, paying the modest amount of Trade Claims—approximately 1.1% of the total debt to be restructured in these cases—in the ordinary course is prudent when compared to the amount the Debtors' stakeholders stand to lose if the Debtors' businesses were to be interrupted. Accordingly, continued payment of the Trade Claims as provided herein is a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, is in the best interests of the Debtors' and their respective estates and creditors, and is warranted under the circumstances.

26. Courts in this district have authorized payment of prepetition general unsecured claims in the ordinary course of business where a debtor's proposed prepackaged plan of reorganization provides for a 100% recovery on general unsecured claims. *See, e.g.*, *In re Checkout Holding Corp.*, No. 18-12794 (KG) (Bankr. D. Del. Jan. 10, 2019) (ECF No. 188) (authorizing payment of prepetition general unsecured claims in the ordinary course of business); *In re Mattress Firm, Inc.*, No. 18-12241 (CSS) (Bankr. D. Del. Oct. 26, 2018) (ECF No. 425) (same); *In re Se. Grocers, LLC*, No. 18-10700 (MFW) (Bankr. D. Del. Apr. 23, 2018) (ECF No. 336) (same); *In re Tidewater Inc.*, No. 17-11132 (BLS) (Bankr. D. Del. June 13, 2017) (ECF No. 219) (same); *In re American Gilsonite Co.*, No. 16-12316 (CSS) (Bankr. D. Del. Nov. 18, 2016) (ECF No. 128) (same); *In re Basic Energy Servs., Inc.*, No. 16-12320 (KJC) (Bankr. D. Del. Nov. 17, 2016) (ECF No. 168) (same).

B. Additional Bases for Payment of Trade Claims

i. Certain Trade Claims are Administrative Expenses

27. Certain Trade Claims may be entitled to the statutory priority for goods delivered to the Debtors in the ordinary course of business within 20 days before the Petition Date. Section 503(b)(9) of the Bankruptcy Code provides that claims for goods delivered to the Debtors in the ordinary course of business within 20 days after the Petition Date are administrative expense claims against the applicable Debtor's estate. *See* 11 U.S.C. § 503(b)(9). The Debtors, therefore, are required to pay such claims in full to confirm a plan of reorganization. *See id*.; 11 U.S.C. § 1129(a)(9)(A) (requiring payment in full of claims entitled to administrative expense priority). Instead of paying such Trade Claims on the effective date of the Prepackaged Plan, the Debtors seek authority to pay the Trade Claims during the pendency of these chapter 11 cases as they become due. The Bankruptcy Code requires, and the Prepackaged Plan provides for, payment in full of administrative expense claims on the effective date of the Prepackaged Plan, or as soon as practicable thereafter. Thus, payment of Trade Claims entitled to priority under section 503(b)(9) of the Bankruptcy Code under the Proposed Orders will effect only a change in the timing of such payments, not the amounts or priority thereof.

28. In light of the various office and facility closures caused by the COVID-19 pandemic, the Debtors do not anticipate the delivery of goods in the ordinary course within the 20-day window prior to the Petition Date. To the extent the Debtors identify any deliveries that were made within the statutory window, the Debtors request authority to pay the associated claims asserted by such Trade Vendors in the ordinary course. Finally, authorizing the Debtors to pay Trade Claims pursuant to the terms set forth herein should eliminate the burden on this Court and the Debtors arising from numerous individual motions requesting payment on account of 503(b)(9) claims.

29. Courts in this district have frequently authorized the payment of vendor claims entitled to administrative priority pursuant to section 503(b)(9) of the Bankruptcy Code. *See, e.g.*, *In re Checkout Holding Corp.*, No. 18-12794 (KG) (Bankr. D. Del. Jan. 10, 2019) (ECF No. 188) (authorizing debtors to pay 503(b)(9) claims); *In re The NORDAM Grp., Inc.*, No. 18-11699 (MFW) (Bankr. D. Del. Aug. 29, 2018) (ECF No. 224) (same); *In re Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del. Mar. 20, 2018) (ECF No. 96) (same); *In re The Bon-Ton Stores, Inc.*, No. 18-10248 (MFW) (Bankr. D. Del. Feb. 6, 2018) (ECF No. 117) (same); *In re TK Holdings Inc.*, No. 17-11375 (BLS) (Bankr. D. Del. July 26, 2017) (ECF No. 327) (same).

ii. Certain Trade Creditors Are Critical Vendors Necessary to Ensure Continuation of Debtors' Operations

30. The Debtors have determined that certain of the Trade Creditors are essential to maintaining the going concern value of the Debtors' enterprise (the "**Critical Vendors**"). These Critical Vendors include, among others: (i) datacenters used to house the Debtors' software-as-a-service learning asset and delivery platform offerings, critical applications and data, and physical equipment including routers, switches, storage systems, and servers; (ii) software producers that provide the Debtors with non-exclusive licenses to promote, sublicense, and distribute software to be integrated into the Debtors' learning products; and (iii) content vendors that publish and/or own content and information that is licensed to the Debtors and delivered in an agreed-upon format for use in the Debtors' learning products.

31. Payment of Critical Vendors is necessary for the Debtors to maintain operations, to preserve the value of the Debtors' business, and moreover, to enable the Debtors to function in the ordinary course. Given the nature of the goods and services provided by the Critical Vendors, the consequences if the Critical Vendors cease providing such goods and services to the Debtors, and the resulting loss of value to the Debtors' estates, the relief requested herein is

necessary and appropriate. The Debtors' authority to address their Critical Vendor Claims in the initial days of these cases will send a clear signal to their suppliers and customers that the Debtors are both willing and able to conduct business as usual after the Petition Date. Failure to authorize the Debtors to pay Critical Vendor Claims as provided herein would jeopardize the Debtors' chapter 11 restructuring strategy, and, ultimately, the success of these chapter 11 cases. Of the Trade Claims, an amount of approximately $15.3 million represent Critical Vendor Claims, with approximately $12.5 million coming due and payable during the Interim Period.

32. Courts in this district regularly grant relief to pay critical vendors consistent with that which the Debtors are seeking in this Motion. *See, e.g.*, *In re LBI Media, Inc.*, No. 18-12655 (CSS) (Bankr. D. Del. Nov. 21, 2018) (ECF No. 82) (authorizing debtors to pay prepetition claims of critical vendors); *In re The NORDAM Grp., Inc.*, No. 18-11699 (MFW) (Bankr. D. Del. Aug. 29, 2018) (ECF No. 224) (same); *In re Claire's Stores, Inc.*, No. 18-10584 (MFW) (Bankr. D. Del. Apr. 17, 2018) (ECF No. 279) (same); *In re TK Holdings Inc.*, No. 17-11375 (BLS) (Bankr. D. Del. Aug. 9, 2017) (ECF No. 445) (same).

C. Confirmation of Administrative Expense Status of Prepetition Purchase Orders is Appropriate and Necessary to Debtors' Reorganization

33. Furthermore, as of the Petition Date, the Debtors have certain prepetition purchase orders (the "**Prepetition Purchase Orders**") outstanding with various third party vendors and suppliers (the "**Vendors**") for goods or services ordered by the Debtors that have not yet been delivered or provided to the Debtors. These Vendors may be concerned that, because the Debtors' obligations under the Prepetition Purchase Orders arose before the Petition Date, such obligations will be treated as general unsecured claims in these chapter 11 cases. Accordingly, and notwithstanding the Prepackaged Plan's treatment of general unsecured claims, certain Vendors may refuse to provide goods or services to the Debtors purchased pursuant to the

Prepetition Purchase Orders unless the Debtors issue substitute purchase orders postpetition or obtain an order of the Court (i) confirming that all undisputed obligations of the Debtors arising from the postpetition delivery of goods or services subject to Prepetition Purchase Orders are afforded administrative expense priority status under section 503(b) of the Bankruptcy Code and (ii) authorizing the Debtors to satisfy such obligations in the ordinary course of business.

34. It is necessary to the uninterrupted operation of the Debtors' business that obligations owed under the Prepetition Purchase Orders for goods or services delivered or provided postpetition be explicitly granted administrative expense status. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, obligations that arise in connection with the postpetition delivery of necessary goods and services are afforded administrative expense priority status. *See, e.g.*, *Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.)*, 10 F.3d 944, 956 (2d Cir. 1993) ("[A] claim will be afforded priority 'only to the extent that the consideration supporting the claimant's right to payment was both supplied to and beneficial to the debtor-in-possession in the operation of the business.'") (quoting *Trustees of Amalgamated Ins. Fund v. McFarlin's, Inc.*, 789 F.2d 98, 101 (2d Cir. 1986) (quoting *In re Mammoth Mart, Inc.*, 536 F.2d 950, 954 (1st Cir. 1976))); *In re Tropicana Entm't, LLC*, No. 08-10856 (KJC), 2015 WL 6112064, at *5 (Bankr. D. Del. Oct. 14, 2015) (internal quotation omitted) ("[Pursuant to] Bankruptcy Code § 503(b)(1)(A), the Court may allow as administrative expenses, the actual, necessary costs and expenses of preserving the estate, including wages, salaries, commissions for services rendered after the commencement of the case."); *In re Blockbuster Inc.*, No. 10-14997 (BRL), 2010 WL 5559538, at *3 (Bankr. S.D.N.Y. Oct. 27, 2010) (final order ruling that "Debtors' undisputed obligations . . . that arise from the postpetition delivery of materials, goods, and services that were ordered in the prepetition period shall have administrative expense priority status pursuant to section 503(b) of the Bankruptcy

Code."). Thus, the granting of the relief requested herein will not provide the Vendors with any greater priority than they otherwise would have if the relief were not granted, and will not prejudice any other parties in interest.

35. Similar relief to that requested herein has been granted in other chapter 11 cases in this and other districts. *See, e.g., In re Tidewater Inc.*, No. 17-11132 (BLS) (Bankr. D. Del. June 13, 2017) (ECF No. 219) (granting administrative expense status to undisputed obligations to vendors arising from postpetition delivery of goods and services ordered prepetition); *see also In re The NORDAM Grp., Inc.*, No. 18-11699 (MFW) (Bankr. D. Del. Aug. 29, 2018) (ECF No. 224) (granting administrative expense status to undisputed obligations to vendors arising from postpetition delivery of goods and services ordered prepetition); *In re The Bon-Ton Stores, Inc.*, No. 18-10248 (MFW) (Bankr. D. Del. Feb. 6, 2018) (ECF No. 115) (same); *In re TK Holdings Inc.*, No. 17-11375 (BLS) (Bankr. D. Del. July 26, 2017) (ECF No. 327) (same).

D. Cause Exists to Authorize Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers

36. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor-in-possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Trade Claims. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that the Court should authorize the Banks, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested herein, solely to the extent that the Debtors have sufficient funds standing to their credit with such Banks, and such Banks may rely on the

representations of the Debtors without any duty of further inquiry and without liability for following the Debtors' instructions.

Reservation of Rights

37. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

38. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, failure to pay the Trade Claims immediately and in the ordinary course would expose the Debtors' businesses to imminent and unnecessary risk. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 6004(a) and (h)

39. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

40. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200

Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq.); (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) the Securities and Exchange Commission; (x) the Banks; and (xi) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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-and-

WEIL, GOTSHAL & MANGES LLP
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Katherine Theresa Lewis (*pro hac vice* admission pending)
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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for an order (i) authorizing the Debtors to pay the prepetition Trade Claims in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Bankruptcy Rules, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), 363(c), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay, in the ordinary course of business, some or all of the prepetition Trade Claims of Trade Creditors in full; provided that the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable between the Petition Date and the date that a final order on the Motion is entered, in an aggregate amount not to exceed $18.0 million, unless otherwise ordered by this Court; and in all cases subject to the following:

(a) The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to this Interim Order.

(b) Before making a payment to a creditor under this Interim Order, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for

less than their face amount without further notice or hearing.

3. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code.

4. The Debtors are authorized, but not directed, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice; *provided* that such actions are in compliance with, and not prohibited by, the terms of the DIP Orders (as defined below) and other documentation governing the Debtors' use of cash collateral and postpetition financing facilities, including, without limitation, the DIP Credit Agreement (as defined in the DIP Orders).

5. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

6. The Debtors are further authorized, but not directed, to issue postpetition checks, or to effect postpetition funds transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

7. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders).

8. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

9. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

10. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

13. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

14. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (Eastern Time) on _____, 2020**.

15. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

16. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for an order (i) authorizing the Debtors to pay the prepetition Trade Claims in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis (the "**Hearing**"), if necessary; and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), 363(c), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay, in the ordinary course of business, some or all of the prepetition Trade Claims of Trade Creditors in full, subject to the following:

(a) The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to this Final Order.

(b) Before making a payment to a creditor under this Final Order, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for less than their face amount without further notice or hearing.

3. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code.

4. The Debtors are authorized, but not directed, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice; *provided* that such actions are in compliance with, and not prohibited by, the terms of the DIP Orders (as defined below) and other documentation governing the Debtors' use of cash collateral and postpetition financing facilities, including, without limitation, the DIP Credit Agreement (as defined in the DIP Orders).

5. The Debtors are authorized, but not directed, in their sole discretion, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice.

6. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

7. Notwithstanding anything in the Motion or this Final Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein,

as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders)

8. The Debtors are further authorized, but not directed, to issue postpetition checks, or to effect postpetition funds transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Final Order.

9. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

10. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Final Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

11. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

12. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

13. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

15. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB HH

Interim Order (I) Authorizing the Debtors to Pay Prepetition Trade Claims in Ordinary Course of Business and (II) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 9**

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION TRADE CLAIMS IN ORDINARY COURSE OF BUSINESS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a), 363(b), and 503(b)(9) of title 11 of the United States Code (the "**Bankruptcy Code**") and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for an order (i) authorizing the Debtors to pay the prepetition Trade Claims in the ordinary course of business and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware,

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Bankruptcy Rules, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

1. The Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), 363(c), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay, in the ordinary course of business, some or all of the prepetition Trade Claims of Trade Creditors in full; provided that the Debtors are authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable between the Petition Date and the date that a final order on the Motion is entered, in an aggregate amount not to exceed $18.0 million, unless otherwise ordered by this Court; and in all cases subject to the following:

(a) The Debtors, in their sole discretion, subject to the limitations set forth below, shall determine which Trade Claims, if any, will be paid pursuant to this Interim Order.

(b) Before making a payment to a creditor under this Interim Order, the Debtors may, in their discretion, settle all or some of the prepetition claims of such creditor for

less than their face amount without further notice or hearing.

2. The undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code.

3. The Debtors are authorized, but not directed, pursuant to section 363(c)(1) of the Bankruptcy Code, to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment of goods or provision of services under the Prepetition Purchase Orders consistent with their customary past practice; *provided* that such actions are in compliance with, and not prohibited by, the terms of the DIP Orders (as defined below) and other documentation governing the Debtors' use of cash collateral and postpetition financing facilities, including, without limitation, the DIP Credit Agreement (as defined in the DIP Orders).

4. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

5. The Debtors are further authorized, but not directed, to issue postpetition checks, or to effect postpetition funds transfer requests, in replacement of any checks or funds transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Interim Order.

6. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders).

7. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

8. To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control.

9. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

10. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

11. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

12. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

13. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

14. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

15. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB II

Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief

Docket #0004 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):[2]

Relief Requested

1. By this Motion, the Debtors request, pursuant to sections 105(a), 363, and 507(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "**Bankruptcy Code**"),

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] The facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration (as defined herein) filed contemporaneously herewith. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

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entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs (as defined herein) in the ordinary course of business as provided herein and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief.

2. The Debtors further request that the Court (i) authorize all applicable financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing to the extent directed by the Debtors in accordance with this Motion and to the extent the Debtors have sufficient funds standing to their credit with such Bank, whether such checks were presented or electronic requests were submitted before or after the Petition Date (as defined herein), and (ii) authorize all Banks to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion, without any duty of further inquiry, and without liability for following the Debtors' instructions.

3. The Debtors further request that the Court authorize the Payroll Processors (as defined herein), to honor and pay all checks presented for payment and electronic payment requests relating to the foregoing to the extent directed by the Debtors in accordance with the relief granted pursuant to this Motion, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

4. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

5. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

6. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

7. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

8. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.

9. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.5% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

10. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

11. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

The Debtors' Workforce

12. As of the Petition Date, the Debtors employ approximately 1,380 individuals on a full-time basis in the United States, Canada, the United Kingdom, and Ireland (collectively, the "**Employees**"). Of the Debtors' Employees, approximately 409 are employed across Canada, Ireland, and the United Kingdom (the "**International Employees**"), while

approximately 971 are employed domestically (the "**Domestic Employees**"). In addition, the Debtors' non-Debtor affiliates employ approximately 862 full-time, salaried employees across various jurisdictions, including France, Australia, India, and Japan. Thus, as of the Petition Date, the Company employs approximately 2,242 full-time employees in total, of which approximately 971 are employed domestically, and 1,271 are employed internationally. None of the Employees are party to a collective bargaining agreements or other similar labor agreements.

13. Additionally, the Debtors employ several part-time employees, and utilize the services of independent contractors and temporary workers, to, among other things, produce content for their extensive portfolio of learning content assets, to develop software for its learning and talent development technology platforms, and to perform various administrative services (collectively, the "**Supplemental Employees**" and, together with the Employees, the Debtors' "**Workforce**"). The Supplemental Employees are an important complement to the Debtors' Employees, and their services ensure the Debtors' core business operations run smoothly on a day-to-day basis. As of the Petition Date, the Debtors have approximately twenty-five (25) individuals as Supplemental Employees.

14. The Debtors' Workforce performs a wide variety of functions that are critical to the Debtors' operations. Several of these individuals are highly trained and have an essential working knowledge of the Debtors' business and/or product offerings that cannot easily be replicated. Failure to maintain the continued, uninterrupted services of their Workforce could upend the Debtors' reorganization efforts and jeopardize their business as a going concern.

Compensation and Benefits Programs

15. As with similarly situated companies, the Debtors maintain various compensation and benefits programs and pay various administrative fees and premiums in

connection therewith (each as defined herein and, collectively, the "**Compensation and Benefits Programs**"), including:

(a) Workforce Compensation;

(b) Payroll Processing Fees;

(c) Withholding Obligations;

(d) Reimbursable Expenses;

(e) Non-Insider Employee Incentive Programs;

(f) Health Insurance Programs;

(g) Life Insurance and Disability Programs;

(h) Retirement Plans;

(i) Paid Time Off;

(j) Non-Insider Severance;

(k) Redundancy Benefits; and

(l) Other Employee Benefits

16. The Debtors believe that the vast majority of their Employees rely exclusively or primarily on the compensation and benefits they receive through the Compensation and Benefits Programs to pay their daily living expenses and support their families. The Employees will face significant financial consequences if the Debtors are not permitted to continue to administer the Compensation and Benefits Programs in the ordinary course of business. Further, the Debtors' failure to honor their obligations in connection with the Compensation and Benefits Programs likely would result in attrition at a time when the Debtors need to retain their Workforce, motivate their Workforce to perform at peak efficiency and attract top talent to fill critical experience and skills requirements identified by the business.

17. Subject to the Court's approval and the terms and conditions set forth herein, the Debtors intend to continue to administer their Compensation and Benefits Programs in the ordinary course. The Debtors further request confirmation of their right to modify, change, and/or discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and/or benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

18. The Debtors estimate that, as of the Petition Date, they owe the following aggregate prepetition amounts on account of the Compensation and Benefits Programs (the "**Final Amounts**") and that the following prepetition amounts on account of the Compensation and Benefits Programs will become due and payable during the Interim Period (the "**Interim Amounts**"):

Compensation and Benefits Program	Interim Amount	Final Amount
Workforce Compensation	$904,793	$1,301,312
Payroll Processing Fees	$21,565	$21,565
Withholding Obligations	$170,202	$207,657
Reimbursable Expenses	$772,579	$828,129
Health Insurance Programs	$585,477	$585,477
Life Insurance and Disability Programs	$8,000	$8,000
Retirement Plans	$44,078	$44,078
Paid Time Off	N/A	N/A
Non-Insider Severance	$86,724	$187,175
Redundancy Benefits	N/A	N/A
Other Employee Benefit Programs	$72,196	$72,196
Total Amounts	$2,665,614	$3,255,589

19. As shown in the above table, the Debtors estimate that, as of the Petition Date, they owe approximately $3,255,589 on account of the Compensation and Benefit Programs,

approximately $2,665,614 of which will become due and payable during the period between the Petition Date and the final hearing on the Motion (the "**Interim Period**"). To fulfill these imminent commitments, the Debtors request entry of the proposed Interim Order, authorizing the Debtors to pay Compensation in an aggregate amount not to exceed the Interim Amount, subject to the $13,650 per-payee cap established by sections 507(a)(4) and (a)(5) of the Bankruptcy Code. The Debtors also seek authorization at the final hearing on this Motion to pay any remaining prepetition Compensation and Benefit Program obligations owing at that time.

A. Compensation, Withholding Obligations, and Reimbursable Expenses

(i) *Unpaid Workforce Compensation*

20. The Debtors pay Workforce wages, salaries, commissions and other compensation (excluding Reimbursable Expenses and Paid Time Off), as well as directors' fees and retainers, on a weekly, bi-weekly, monthly, or less frequent basis (collectively, the "**Compensation**"). Because most Employees and Supplemental Employees are paid in arrears, the Debtors will owe certain Employees and Supplemental Employees accrued but unpaid Compensation as of the Petition Date. Compensation also may be due as of the Petition Date for a variety of reasons, such as certain members of the Workforce holding issued but uncashed paychecks as of the Petition Date. In the twelve (12) months prior to the Petition Date, the Debtors spent an average of approximately $13,602,756 per month on account of Compensation.

21. As of the Petition Date, the Debtors estimate that they owe approximately $1,301,312 on account of Compensation earned by Employees prior to the Petition Date, approximately $904,793 of which will become due and payable during the Interim Period. Of this amount, approximately $703,831 is owed to Domestic Employees, and $200,962 is owed to International Employees. Additionally, as of the Petition Date, the Debtors do not owe any

amounts on account of Compensation earned by Supplemental Employees prior to the Petition Date.

a. Commission Pay Policy

22. As part of the Compensation offered to Employees engaged in certain sales activities, the Debtors administer a commission pay policy that provides commissions upon such participating Employees meeting or exceeding predetermined sales goals (the "**Commission Pay Policy**" and the commissions paid thereunder, the "**Commissions**"). The Commission Pay Policy is available for certain Employees considered designated and authorized representatives of the Company responsible for the licensing or sale of products and services ("**Sales Employees**").[3] In the twelve months prior to the Petition Date, approximately 544 Sales Employees participated in this program.

23. Under the Commission Pay Policy, each Sales Employee is assigned a sales goal ("**Sales Quota**"), which may be satisfied upon achievement of certain defined sales goals outlined in a Sales Employee's compensation plan. Sales activities, actual sales, and other measures of job performance and progress toward established goals are monitored by the Debtors on an on-going basis. Participating Sales Employees may earn Commissions under the Commission Pay Policy in connection with sales performance on a monthly, quarterly, annual, and/or other basis as established by the Debtors. The Debtors estimate that the average annual cost of administering the Commission Pay Policy is approximately $29,452,811. As of the Petition

[3] Examples of Sales Employees include Regional Account Executives, Global Business Development Executives, Regional Manager/Directors, Inside Sales Consultants, Inside Sales Account Managers, Inside Sales Lead Generators, Channel Account Executives, Compliance Regional Account Executives, Customer Sales Directors, and Customer Success Manager.

Date, the Debtors estimate that accrued Commissions total approximately $464,569, of which $68,050 will come due and owing in the Interim Period.

b. Non-Insider Incentive Programs

24. The Debtors maintain certain incentive programs to motivate and reward certain of their non-insider Employees (collectively, the "**Non-Insider Employee Incentive Programs**").[4] The Non-Insider Employee Incentive Programs include various performance-based incentive programs, such as (i) the Performance Based Bonus Plan, (ii) the SumTotal and Skillsoft Professional Services Bonus Plans, (iii) Retention Bonus Awards and (iv) the Outstanding Contributor Award Program. The Debtors believe that the Non-Insider Employee Incentive Programs are integral to the Debtors' business operations because they generally align eligible Employees' interests with those of the Debtors by linking payments under the Non-Insider Employee Incentive Programs to the overall performance and efficiency of the Debtors' operations.

25. The Debtors believe that they are current on all scheduled payments on account of the Non-Insider Employee Incentive Programs, and that no amounts will come due and owing on account of the Non-Insider Employee Incentive Programs during the Interim Period. Following a payout date, however, the Debtors routinely receive inquiries from Employees who were entitled to receive awards under the Non-Insider Employee Incentive Programs but, due to administrative updates and pending reconciliations, were not paid such awards (the "**Omitted Incentive Awards**"). The Debtors estimate that, as of the Petition Date, they owe *de minimis*

[4] The relief sought in this Motion with respect to the Non-Insider Employee Incentive Programs does not include the payment of any obligations to an "insider" (as that term is defined in section 101(31) of the Bankruptcy Code, an "**Insider**"). For purposes of this Motion, Insiders shall include their Executive Chairman, their Chief Financial Officer, Chief Administrative Officer, Chief People Officer, and Senior Vice President, Finance. The Debtors reserve all rights with respect to the classification of all other persons as "Insiders" and "non-Insiders."

amounts on account of the Non-Insider Employee Incentive Programs, and that no amounts will come due and owing on account of the Omitted Incentive Awards during the Interim Period.

26. Pursuant to the relief requested by this Motion on a final basis, the Debtors also seek authority to continue the Non-Insider Employee Incentive Programs in the ordinary course of business on a postpetition basis.

(1) Performance-Based Bonus Plan

27. The Debtors offer certain Employees an annual bonus opportunity based on the performance of the Company in a given fiscal year (the "**Performance-Based Bonus Plan**"), pursuant to which each participant is assigned a target annual bonus opportunity at the beginning of each plan year (or, prorated to their start date during the fiscal year), and the percentage of the target bonus opportunity that is earned by each participant is determined by the Company's attainment of its target financial performance. Generally, only full-time regular employees (with the exception of commissioned sales associates) are eligible to participate in the Performance-Based Bonus Plan.

28. Participants may receive a percentage up to 100% of an annual bonus opportunity, depending on the overall level of attainment of the Company's financial performance objective. Bonus opportunities are paid under the Performance-Based Bonus Plan, to the extent earned, at the end of the first complete pay period following a determination by the Board of Directors (or its designee) regarding the level of bonuses to be paid, typically in May. The Debtors estimate that the total amount that could be payable under the Performance-Based Bonus Plan for the fiscal year ended January 31, 2020 was approximately $13,493,308. It has been determined by the Board of Directors, however, that bonuses under the Performance-Based Bonus Plan for this period were not earned and will not be paid. Accordingly, the Debtors do not anticipate that

any amounts will become due and owing under the Performance-Based Bonus Plan during the Interim Period.

(2) Professional Services Bonus Plan

29. The Debtors maintain a bonus structure for certain SumTotal and Skillsoft professional service Employees intended to align an incentive element of a participating individual's compensation with the goals of the Company and the professional services organization (the "**Professional Services Bonus Plan**"). There are different categories of Employees at Skillsoft and SumTotal that are eligible to participate in either the Skillsoft or SumTotal Professional Services Bonus Plan: (1) individuals whose primary role is to work on customer delivery; (2) individuals whose primary job responsibility is supporting sales efforts; and (3) individuals who are part of the Professional Services management teams. The bonus attainment under the Professional Services Bonus Plan is based on a combination of financial and individual performance and delivery quality as measured by certain key performance indicators ("**KPIs**"). KPIs are weighted based on the primary focus of the role and relative impact that the role has on each KPI. The Debtors estimate that the average annual cost of administering the Professional Services Bonus Plans is approximately $583,004.23, but do not anticipate that any amounts will become due and owing under the Professional Services Bonus Plans during the Interim Period.

(3) Retention Bonus Awards

30. The Debtors maintain an incentive practice for Employees that provides additional compensation on a discretionary basis (a "**Retention Bonus Award**"), less usual withholdings and deductions, if the Employee remains employed by the Debtors through a specified date. The Retention Bonus Awards provide an additional incentive for participating Employees to remain employed with the Debtors, and is considered a key aspect of the Debtors

compensation package for participating Employees. A Retention Bonus Award is not earned unless and until the Employee completes the specified term of service. When a term of service is completed, the Retention Bonus Award is generally paid in the first complete pay period following the end of the defined retention period. The Debtors estimate that, on an average annual basis, approximately $621,220 Retention Bonus Awards are paid out, but that no Retention Bonus Awards are outstanding as of the Petition Date.

(4) Outstanding Contributor Award Program

31. The Debtors offer an additional incentive program for certain Employees demonstrating exceptional performance during a fiscal year. Under this incentive program (the "**Outstanding Contributor Award Program**"), twenty (20) Employees across the company are recognized each fiscal year for their outstanding achievement in their particular role and awarded a "travel voucher" valued at $2,500. The annual cost of administering the Outstanding Contributor Award Program is $50,000, with each voucher coming due and payable upon the recipient incurring the travel expense. As of the Petition Date, there are approximately 25 such vouchers that may be expended by the Debtors' Employees. In light of widespread travel restrictions in place as of the Petition Date, however, the Debtors estimate that *de minimis* amounts will come due and payable in the Interim Period on account of the Outstanding Contributor Award Program.

(ii) *Payroll Processing*

32. The Debtors utilize various vendors to administer payroll and several other employee-related benefits programs (collectively, the "**Payroll Processors**"). The Payroll Processors provide, among other things, the Debtors' payroll processing system and ensure proper tax and benefits withholding. On an average, the Debtors pay the Payroll Processors administration fees of approximately $258,780 (the "**Payroll Processing Fees**") each year. As of

the Petition Date, the Debtors estimate that they owe the Payroll Processors approximately $21,565 in Payroll Processing Fees, all of which will become due and payable during the Interim Period.

(iii) ***Withholding Obligations***

33. During applicable pay periods, the Debtors deduct certain amounts from Employees' paychecks, including garnishments, levies, child support and related fees, and pre-tax contributions to certain of the Health and Welfare Programs (as defined herein) (collectively, the "**Deductions**"). The Debtors transfer the amounts comprising such Deductions to various designated third-party recipients. In the twelve (12) months prior to the Petition Date, the Debtors withheld, on average, approximately $1,577,502 in Deductions each month. The Debtors estimate that, as of the Petition Date, they hold approximately $107,955 in Deductions.

34. The Debtors also are required by law to withhold from Domestic Employees' paychecks amounts related to, among other things, federal, state, and local income taxes and Social Security and Medicare taxes (collectively, the "**Domestic Employee Payroll Taxes**") for remittance to applicable federal, state, and local taxing authorities. Similarly, the Debtors withhold from International Employees' paychecks certain amounts as required by applicable laws in each respective country, including amounts related to National Insurance in the United Kingdom, Canada Pension Plan in Canada, and Universal Social Charge in Ireland (collectively, the "**International Employee Payroll Taxes**" and, together with the Domestic Employee Payroll Taxes, the "**Employee Payroll Taxes**"). The Debtors must then match the Employee Payroll Taxes from their own funds and pay, based upon a percentage of gross payroll, additional amounts for state and federal unemployment insurance (together with the Employee Payroll Taxes, the "**Payroll Taxes**"). In the twelve (12) months prior to the Petition Date, the Debtors remitted, on average, approximately $3,660,228 in Payroll Taxes each month.

35. As of the Petition Date, the Debtors estimate that the aggregate amount of accrued but unremitted Deductions and Payroll Taxes (together, the "**Withholding Obligations**") is approximately $207,657, approximately $170,202 of which will come due during the Interim Period. By this Motion, the Debtors seek authority to forward to the appropriate third-party recipients, consistent with historical practice, any unremitted Withholding Obligations and to continue to honor the Withholding Obligations in the ordinary course of business on a postpetition basis.[5]

(iv) *Reimbursable Expenses*

36. The Debtors reimburse certain expenses (collectively, the "**Reimbursable Expenses**"). The Reimbursable Expenses include (i) the Employee Reimbursable Expenses, (ii) the Employee Credit Card Reimbursements, (iii) Relocation Expenses, and (iv) Education Benefit Program Expenses. In aggregate, the Debtors estimate that they owe approximately $828,129 in Reimbursable Expenses as of the Petition Date, approximately $772,579 of which will come due and owing in the Interim Period.

a. Employee Reimbursable Expenses

37. In the ordinary course of business, the Debtors reimburse certain Employees for reasonable and customary business expenses incurred in the scope of their employment (the "**Employee Reimbursable Expenses**"). Employee Reimbursable Expenses, include, but are not limited to, expenses arising typically from transportation, lodging, and dining that are incurred in connection with business travel. The Debtors seek authority to continue reimbursing Employees

[5] Contemporaneously herewith, the Debtors have sought authority, but not direction, to pay certain prepetition taxes, assessments, fees, and other charges in the ordinary course of business pursuant to the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees, and (II) Granting Related Relief* (the "**Taxes Motion**"). By this Motion, the Debtors do not seek authority to pay prepetition claims that may be covered by the relief sought in the Taxes Motion.

for Employee Reimbursable Expenses in the ordinary course of business and to honor any outstanding obligations related to the Employee Reimbursable Expenses, including paying any administrative fees related thereto. In the twelve (12) months prior to the Petition Date, the Debtors reimbursed, on average, approximately $415,847 in Employee Reimbursable Expenses each month. As of the Petition Date, the Debtors estimate that approximately $415,847 in Employee Reimbursable Expenses remain outstanding, all of which could become due and payable during the Interim Period.

b. Employee Credit Card Reimbursements

38. The Debtors provide certain Employees with corporate credit cards (the "**Corporate Credit Cards**"), which Employees can use to make work-related purchases. Approximately 14 Employees have been issued Corporate Credit Cards, each of which were issued to these Employees in their own names. For Domestic Employees, the charges on Corporate Credit Cards are charged directly to the Debtors and paid by the Debtors at regular intervals. International Employees holding Corporate Credit Cards, however, are personally responsible for making payments on their Corporate Credit Cards, and may seek reimbursement from the Debtors for these payments.[6] Employees may also seek reimbursement for work-related purchases charged to their personal credit cards (together with the Corporate Credit Cards, the "**Employee Credit Cards**"), by submitting expense reports.

39. On average, the Debtors pay approximately $339,412 each month on account of Reimbursable Expenses charged to Employee Credit Cards (the "**Employee Credit Card Reimbursements**"). As of the Petition Date, the Debtors estimate that they owe

[6] As of the Petition Date, only one Corporate Credit Card is held by an employee at Skillsoft Ireland Limited.

approximately $339,412 on account of Employee Credit Card Reimbursements, approximately all of which will become due and payable during the Interim Period.

c. Relocation Expenses

40. In the ordinary course of business, the Debtors also pay certain expenses incurred by Employees who are required to relocate in connection with their employment (the "**Relocation Expenses**"). The majority of Relocation Expenses are either reimbursed to the Employees or directly billed to the Debtors by the Debtors' relocation provider. The Relocation Expenses include, but are not limited to, costs associated with the transportation of household goods, temporary living accommodations and travel to the new destination.

41. On an average annual basis, the Debtors spend approximately $8,706 on account of Relocation Expenses. As of the Petition Date, the Debtors estimate that there are no unpaid amounts on account of Relocation Expenses.

d. Education Benefit Program Expenses

42. The Debtors also maintain an education reimbursement plan (the "**Education Reimbursement Plan**") to encourage both Domestic and International Employees to participate and complete relevant education programs. Under the Education Reimbursement Plan offered to Domestic Employees, for example, eligible Employees who work at least thirty (30) hours per week may have qualifying education expenses reimbursed up to $5,250 per calendar year. Further, the Debtors maintain a scholarship program for the children of Employees who plan to continue education in undergraduate, graduate, or vocational school programs (the "**Scholarship Program**" and together with the Education Reimbursement Plan, the "**Education Benefit Programs**"). The Debtors offer twenty scholarships through the Scholarship Program each academic year, each valued at $2,500.

43. On an average annual basis, the Debtors spend approximately $173,000 on account of the Education Benefit Programs. As of the Petition Date, the Debtors estimate that they owe approximately $72,870 on account of the Education Benefit Programs, approximately $17,320 of which will become due and payable during the Interim Period.

B. Employee Benefit Programs

44. In the ordinary course of business, the Debtors offer certain Employees various benefits programs, including the Health and Welfare Programs and Paid Leave (each as defined herein and, collectively, the "**Employee Benefits Programs**"). By this Motion, the Debtors seek authority to continue to administer the Employee Benefits Programs in the ordinary course of business and to pay any prepetition obligations owed on account of the Employee Benefits Programs.

(i) *Health and Welfare Programs*

45. The Debtors offer several health and welfare benefits programs to eligible Employees, including the Health Insurance Programs, the Life Insurance and Disability Programs, and the 401(k) Plan (each as defined herein and, collectively, the "**Health and Welfare Programs**"). In addition, the Debtors pay certain routine administrative fees to third-party service providers in connection with administering the Health and Welfare Programs.

a. Health Insurance Programs

46. Certain Employees are eligible to participate in a number of the Health and Welfare Programs, including the Medical Plans, the FSA, the Vision Plans, and the Dental Plans (each as defined herein and, collectively, the "**Health Insurance Programs**"). The Debtors share the cost of Health Insurance Program premiums with the Employees. Employee contributions to the Health Insurance Programs are deducted from each Employee's paycheck on a pre-tax basis.

47. The Debtors offer medical and prescription drug benefit programs (the "**Medical Plans**") to certain Employees. The Medical Plans offered to Domestic Employees are administered by United HealthCare Services, Inc. (the "**Domestic Medical Plan Administrator**"). International Employees are offered Medical Plans from various providers, including Medavie Blue Cross in Canada, the British United Provident Association Limited ("**BUPA**") in the United Kingdom, and the Voluntary Health Insurance Board in Ireland (collectively, the "**International Plan Administrators**" and, together with the Domestic Medical Plan Administrator, the "**Medical Plan Administrators**"). The coverage in the Medical Plans differs depending on the level of coverage an Employee elects to receive, and monthly health care premiums differ depending on the Medical Plan in which an Employee is enrolled and whether the Employee has dependents covered by the applicable Medical Plan. The total cost of the Medical Plans, including administrative fees and the cost of paying associated claims, is approximately $1,541,577 per month.

48. In total, the Debtors pay administrative fees and premiums to the Medical Plan Administrators (the "**Medical Plan Administrative Fees**") of approximately $141,577 per month. The Debtors estimate that, as of the Petition Date, they owe approximately $141,577 in Medical Plan Administrative Fees, all of which will become due and payable during the Interim Period. Of this amount, approximately $70,000 is owed to the Domestic Medical Plan Administrator and approximately $71,577 is owed to the International Plan Administrators.

49. The Debtors spend approximately $1,400,000 per month on medical and prescription drug claims asserted under the Medical Plans (collectively, the "**Medical Claims**"). The Debtors make payments on account of the Medical Claims on a weekly basis. On average, Employees submit Medical Claims approximately ninety (90) days after incurring the relevant

medical expenses, and thus the Debtors are unable to ascertain with certainty the prepetition amounts due and outstanding on account of the Medical Claims. Based on historical trends, the Debtors estimate that, as of the Petition Date, they owe approximately $350,000 on account of prepetition Medical Claims asserted by Domestic Employees, all of which will become due and payable during the Interim Period. Further, because the Medical Plans available to International Employees are fully insured plans, there are no Medical Claims associated with such plans that will become due and payable by the Debtors during the Interim Period.

50. Domestic Employees may contribute a portion of their compensation into a flexible spending account (the "**FSA**") administered by Benefit Resources, Inc. The proceeds of an FSA may be used for incidental medical expenses, and eligible Domestic Employees may make contributions regardless of whether they are enrolled in one of the Debtors' offered Medical Plans. Participating Employees can make pre-tax payroll contributions to the FSA up to $2,700 annually to cover any non-reimbursed medical expenses. Currently, approximately 462 Employees contribute to FSAs. The Debtors pay a monthly administration fee to Benefit Resources, Inc. of approximately $1,500 on account of the FSA's. As of the Petition Date, the Debtors estimate that they owe approximately $1,500 in FSA administrative fees, approximately all of which will become due and payable during the Interim Period.

51. Certain of the Debtors' Employees are eligible to participate in vision insurance plans (the "**Vision Plans**"). The Medical Plans offered to both Domestic Employees and International Employees include Vision Plans administered by the applicable Medical Plan Administrator at no additional cost to participating Employees. Accordingly, there is no additional cost to the Debtors on account of the Vision Plans offered to the Employees.

52. Similarly, the Debtors offer certain of their Employees the option to participate in dental insurance plans (the "**Dental Plans**"), which Dental Plans are administered by Delta Dental Plans Association for Domestic Employees, Cigna Dental for Employees in the United Kingdom, and by the respective Medical Plan Administrators for all other International Employees (collectively, the "**Dental Plan Administrators**"). The total cost of the Dental Plans to the Debtors is approximately $74,000 per month.

53. The Debtors pay administrative fees of approximately $6,000 per month on account of the Dental Plans. The Debtors estimate that, as of the Petition Date, they owe approximately $6,000 on account of administrative fees related to the Dental Plans, all of which will become due and payable during the Interim Period. The Debtors also spend approximately $68,000 per month on dental claims asserted under the Dental Plans (collectively, the "**Dental Claims**"). The Debtors make payments on account of the Dental Claims on a monthly basis. On average, Employees submit claims approximately ninety (90) days after incurring the relevant dental expenses, and thus the Debtors are unable to ascertain with certainty the prepetition amounts due and outstanding on account of Dental Claims. Based on historical trends, the Debtors estimate that, as of the Petition Date, they owe approximately $68,000 on account of prepetition Dental Claims, all of which will become due and payable during the Interim Period.

54. The Debtors offer an opt-out incentive for certain Employees that may have access to medical coverage outside of their employment with the Debtors (the "**Opt-Out Incentive**"). Accordingly, the Debtors offer an annualized stipend of $1,500 for any Employee that elects to waive participation in the Health Insurance Programs, which is provided at a rate of $62.50 per semi-monthly pay period. In the twelve months prior to the Petition Date, amounts owed to Employees that have chosen to participate in the Opt-Out Incentive amounted to

approximately $210,000, or approximately $18,400 per month. Accordingly, the Debtors estimate that approximately $18,400 will come due and owing on account of the Opt-Out Incentive during the Interim Period.

55. In sum, as of the Petition Date, the Debtors estimate that the amount of accrued but unpaid obligations under the Health Insurance Programs, including administrative fees, is approximately $585,477, all of which will become due and payable during the Interim Period.

b. Life Insurance and Disability Programs

(1) Life and AD&D Insurance Programs

56. The Debtors provide combined life and accidental death and dismemberment insurance coverage (the "**Basic Life and AD&D Insurance**") to Domestic Employees through Symetra Life and Disability Company (the "**Life Insurance Program Administrator**"). International Employees receive Basic Life and AD&D Insurance through various providers, including RBC Life Insurance Co. in Canada, Canada Life Group Assurance in the United Kingdom, and New Ireland Insurance in Ireland. The Basic Life and AD&D Insurance offered by the Debtors provides coverage of up to $300,000 in the event of an Employee's death or dismemberment for Domestic Employees, and up to $1,113,480 for International Employees. Current Domestic Employees also may purchase supplemental life insurance and voluntary accidental death and dismemberment insurance (together with the Basic Life and AD&D Insurance, the "**Life and AD&D Insurance Program**") to cover themselves, their spouses, and their children through the Life Insurance Program Administrator. The total cost of the Life and AD&D Insurance Program is approximately $8,000 each month, with the entire amount being paid by the Debtors at no cost to Employees. As of the Petition Date, the Debtors estimate that they

owe approximately $8,000 on account of the Life and AD&D Insurance Program, all of which will come due and owing in the Interim period.

57. In addition, the Debtors provide business travel accident insurance (the "**BTA Insurance**") to certain of their Employees through Federal Insurance Company. The total cost of the BTA Insurance is covered by the Debtors' premium payments made under the Life and AD&D Insurance Program. Accordingly, as of the Petition Date, the Debtors estimate that they do not owe any amounts on account of the BTA Insurance.

(2) Short-Term Disability Benefits

58. The Debtors provide certain Employees with short-term disability benefits (the "**Short-Term Disability Benefits**"). All benefits-eligible employees receive Short-Term Disability Benefits without cost. The Debtors' Short-Term Disability Benefits provides income replacement of 70% of an Employee's regular pay for up to 12 weeks, as approved by the applicable carrier, with a maximum benefit of $2,500 per week. Currently, approximately 8 Employees receive Short-Term Disability Benefits. In the twelve (12) months prior to the Petition Date, the Debtors paid approximately $5,100 per month on account of administrative fees and premiums with respect to the Short-Term Disability Benefits. As of the Petition Date, the Debtors estimate that they owe *de minimis* amounts on account of the Short-Term Disability Benefits.

(3) Long-Term Disability Insurance

59. All benefits-eligible Employees participate in long-term disability insurance plans (the "**Long-Term Disability Insurance Plans**" and, together with the Life and AD&D Insurance Program and the Short-Term Disability Benefits, the "**Life Insurance and Disability Programs**"). Employees have the option to elect to pay the premium for an applicable Long-Term Disability Insurance Plans in order to receive tax free benefit payments in the event of a claim. If such Employee does not elect to pay the premium, the Debtors pay such premium on

their behalf. The total cost of the Long-Term Disability Insurance Plans is approximately $16,000 per month, which is fully covered by premiums paid by participating Employees.

c. Retirement Plans

60. The Debtors offer eligible Domestic Employees the opportunity to participate in a 401(k) plan (the "**401(k) Plan**"). Domestic Employees who participate in the 401(k) Plan can make pre-tax payroll contributions to their 401(k) accounts up to the maximum amount permitted by the IRS. Each Domestic Employee's 401(k) contributions are deducted automatically from their paychecks. The Debtors match a Domestic Employee's 401(k) contributions on a discretionary basis, with a maximum matching contribution of a total of $4,000 annually per participating employee (the "**401(k) Contributions**"). Generally, the 401(k) Contributions are made by the Debtors each pay period, with a single true-up payment made, to the extent necessary, at the end of the fiscal year. On an average annual basis, the Debtors spend approximately $3,000,000 on account of 401(k) Contributions. As of the Petition Date, the Debtors believe that they owe approximately $36,805 with respect to their 401(k) Contributions, all of which will come due and owing in the Interim Period.

61. The 401(k) Plan is administered by Empower Retirement. The Debtors generally do not incur costs to Empower Retirement on account of the 401(k) Plan, as plan administrative and investment fees are embedded into each participating Employee's individual account and paid for by such Employees. As such, as of the Petition Date, the Debtors do not believe that they owe any amounts on account of administrative fees in connection with the 401(k) Plan.

62. The Debtors offer similar retirement benefit programs to eligible International Employees (collectively, the "**International Retirement Benefit Programs**" and

together with the 401(k) Plan, the "**Retirement Plans**"). For Canadian employees, for example, the Debtors offer a Structured Retirement Savings Plan, pursuant to which the Debtors contribute an amount equal to 50% of an Employees' contributions to the program up to a maximum of 3% of such Employee's annual earnings. International Employees in Ireland and the United Kingdom similarly participate in pension schemes, administered by LifeSight and Aviva, respectively, pursuant to which the Debtors match Employee program contributions up to a stated cap. As with the 401(k) Plan, the Debtors pay no administrative fees in connection with the International Retirement Benefit Programs. As of the Petition Date, the Debtors believe that they owe approximately $7,273 with respect to the International Retirement Benefit Programs, all of which will come due and owing in the Interim Period.

63. In the twelve (12) months prior to the Petition Date, the Debtors paid approximately $320,000 per month on account of the Retirement Plans. As of the Petition Date, the Debtors estimate that they owe approximately $44,078 on account of the Retirement Plans, approximately all of which will come due during the Interim Period.

(ii) ***Paid Leave***

64. The Debtors maintain a policy for providing Employees paid leave in the form of Paid Time Off (as defined herein) and certain other paid leave (collectively, the "**Paid Leave**").

65. In the ordinary course of business, the Debtors provide paid time off ("**Paid Time Off**") to certain Employees, which may be used for any reason. Paid Time Off generally accrues at specified rates up to a maximum amount based on the Employee's level, area of employment, and length of employment. As of the Petition Date, the Debtors estimate that their Employees have accrued Paid Time Off with a value of approximately $2,506,051 in the aggregate. This amount, however, is not a current cash payment obligation. By this Motion, the Debtors seek

authority, but not direction, to pay any "cash out" amounts due with respect to earned but unused Paid Time Off as it may come due and payable and to continue administering the Paid Time Off policies in the ordinary course of business.

66. In addition, the Debtors provide certain other forms of Paid Leave, including:

(a) non-statutory sick pay;

(b) paid holidays throughout the year for certain Employees;

(c) paid Leave for religious observance; and

(d) other Paid Leave for personal reasons, many of which are required by law, including statutory sick leave, workers' compensation leave, missed work time in the ordinary course of business for bereavement leave, jury or court attendance, and time spent voting.

These other forms of Paid Leave do not involve incremental cash outlays beyond standard payroll obligations.

67. The Debtors believe that the continuation of the Paid Leave policies in accordance with prior practice is essential to maintaining positive Employee morale during these chapter 11 cases. Further, the policies are broad-based programs upon which all Employees have come to depend. The Debtors anticipate that their Employees will utilize any accrued Paid Leave in the ordinary course of business, which will not create any material cash flow requirements beyond the Debtors' regular payroll obligations.

(iii) *Non-Insider Severance*

68. In the ordinary course of business, the Debtors offer severance packages for the benefit of certain terminated non-Insider Employees (the "**Non-Insider Severance Program**"). Certain Employees are eligible, on either a contractual or discretionary basis, to receive severance benefits if such non-Insider Employees are terminated due to a workforce

adjustment or any not-for-cause reason. Pursuant to the Non-Insider Severance Program, eligible Employees, upon termination, are entitled to receive payments, as well as any cash benefits to which they were entitled under their employment agreements within a contractually designated period (the "**Non-Insider Severance Benefits**"). As of the Petition Date, the Debtors estimate that approximately twelve (12) individuals may assert prepetition claims against the Debtors for Non-Insider Severance Benefits under the Non-Insider Severance Program (the "**Severance Claims**").

69. The Debtors' ability to pay and provide discretionary severance amounts and other benefits has been critical to maintaining positive Employee morale and loyalty. Further, certain International Employees hold Severance Claims arising from their termination from Skillsoft U.K. Limited that will come due during these chapter 11 cases. Delaying payment of these claims until the Debtors' emergence from chapter 11 may expose the Debtors to the risk of defending an action for damages in the United Kingdom. Increased instability in the Debtors' Workforce will only undermine the Debtors' ability to strengthen their financial and operational foundation, generate growth, and position themselves for long-term success. The Debtors believe that the Non-Insider Severance Program reduces the time and expense that the Debtors otherwise would spend defending against the assertion of claims, including claims asserted in foreign jurisdictions that may not be subject to the automatic stay imposed by section 362 of the Bankruptcy Code, by severed Employees.

70. As of the Petition Date, the Debtors estimate that they owe approximately $187,175 on account of the Non-Insider Severance Program, approximately $86,724 of which will come due and owing in the Interim Period. By this Motion, the Debtors seek authority to continue the Non-Insider Severance Program and make limited payments thereunder in the ordinary course

as they come due, in an amount totaling approximately $86,724 in the Interim Period. For the avoidance of doubt, the Debtors do not seek authority to pay any obligations in excess of the 507(a)(4) priority cap.

(iv) ***Redundancy Benefits***

71. The Debtors are required under certain foreign jurisdictions to provide benefit payments to International Employees who are terminated under certain circumstances (the "**Redundancy Benefits**"). Failure to honor the Redundancy Benefits could result in director liability and other penalties to the Debtors. As of the Petition Date, the Debtors do not owe any amounts to former International Employees on account of Redundancy Benefits, and the Debtors believe they are authorized to continue providing Redundancy Benefits in the ordinary course of business. Out of an abundance of caution, the Debtors seek authority to continue paying the Redundancy Benefits on a postpetition basis in the ordinary course of business and consistent with their prepetition practices and any prepetition amounts that may be outstanding as of the Petition Date.

(v) ***Other Employee Benefit Programs***

72. In addition to the foregoing, the Debtors have certain other practices and policies that provide benefits to their Employees (collectively, the "**Other Employee Benefit Programs**"), such as an employee cell phone service plan (the "**Employee Phone Program**") and an employee vehicle allowance program for certain International Employees (the "**Employee Vehicle Allowance Program**"). Under the Employee Phone Program, the Debtors purchase cell phones and cell phone service plans for use by certain employees in connection with their employment with the Debtors. Similarly, under the Employee Vehicle Allowance Program, approximately thirty-six (36) Employees at Skillsoft U.K. Limited and three (3) Employees at

Skillsoft Ireland Limited receive a monthly allowance towards covering certain costs associated with those Employees using their personal vehicle for business reasons.

73. The Debtors intend to continue and honor such practices, programs, and policies after the Petition Date, and such practices, programs, and policies may be modified, amended, or supplemented from time to time in the ordinary course of the Debtor's operations, but solely to the extent consistent with the terms of the Prepackaged Plan. On an average annual basis, the Debtors spend approximately $884,796 on account of the Other Employee Benefit Programs. As of the Petition Date, the Debtors estimate that they owe approximately $72,196 on account of the Other Employee Benefit Programs, approximately all of which will become due and payable during the Interim Period.

Relief Requested Should Be Granted

A. Payment of Obligations on Account of Compensation and Benefits Programs Is Warranted Under Section 363(b)(1) of the Bankruptcy Code and Doctrine of Necessity

74. A bankruptcy court may authorize a debtor to pay certain prepetition obligations pursuant to section 363(b) of the Bankruptcy Code. *See* 11 U.S.C. § 363(b)(1). Section 363(b) provides, in pertinent part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts require only that the debtor "show that a sound business purpose justifies such actions." *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (internal citations omitted); *accord In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987).

75. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the

Bankruptcy Code. Section 105(a) of the Bankruptcy Code empowers bankruptcy courts to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Section 1107(a) of the Bankruptcy Code "contains an implied duty of the debtor-in-possession" to "protect and preserve the estate, including an operating business' going-concern value," on behalf of a debtor's creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232–33 (Bankr. S.D.N.Y. 1998) ("[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.").

76. Further, in a long line of well-established cases, courts consistently have permitted payment of prepetition obligations where such payment is necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g.*, *Miltenberger v. Logansport, C&S W.R. Co.*, 106 U.S. 286, 312 (1882) (holding that the payment of pre-receivership claim that arose prior to a reorganization should be permitted to prevent "stoppage of the continuance of [crucial] business relations"); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the . . . [business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending the doctrine permitting the payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285–86 (S.D.N.Y. 1987)

(approving a lower court order that authorized payment of prepetition wages, salaries, expenses, and benefits).

77. In addition, the Court may rely on the doctrine of necessity and its equitable powers under section 105(a) of the Bankruptcy Code to authorize the payment of prepetition claims when such payment is essential to the continued operation of a debtor's business. *See*, *e.g.*, *In re Just for Feet*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of Bankruptcy Code provides a statutory basis for the payment of prepetition claims under the doctrine of necessity particularly when such payment is necessary for the debtor's survival during a chapter 11 case); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity is a standard that enables a court to authorize payment of prepetition claims prior to the confirmation of a reorganization plan).

78. The relief requested by this Motion represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is justified under sections 363(b) and 105(a) of the Bankruptcy Code. Authorizing the Debtors to pay prepetition amounts related to the Compensation and Benefits Programs is in the best interests of the Debtors, their estates, and their economic stakeholders. Indeed, without the relief requested herein, the Debtors' Employees may seek alternative opportunities, perhaps with the Debtors' competitors. The loss of valuable Employees, who are the lifeblood of the Debtors' operations, would deplete the Debtors' Workforce and thereby hinder the Debtors' ability to meet customer demands. Such an outcome would diminish stakeholder confidence in the Debtors' ability to successfully carry out their chapter 11 strategy and to continue operating as a going-concern.

79. Additionally, failure to satisfy the prepetition obligations in connection with the Compensation and Benefits Programs will adversely impact Employee morale and loyalty at a time of perceived uncertainty in light of the commencement of these chapter 11 cases. The Debtors believe that the majority of their Employees rely exclusively or primarily on the compensation and benefits they receive in connection with the Compensation and Benefits Programs to meet their daily living needs. Employees will be exposed to significant financial difficulties and other distractions if the Debtors are not permitted to honor their obligations in connection with the Compensation and Benefits Programs. Furthermore, if the Court does not authorize the Debtors to honor their various obligations under the Health Insurance Programs, and the Life Insurance and Disability Programs, Employees will not receive appropriate coverage and, thus, may become obligated to pay certain healthcare-related claims in cases where the Debtors have not paid the respective providers. The loss of such coverage will result in considerable anxiety for Employees (and likely attrition) at a time when the Debtors need such Employees to perform at peak efficiency. Employee attrition would cause the Debtors to incur additional expenses to find appropriate and experienced replacements, severely disrupting the Debtors' operations at a critical juncture.

80. Moreover, certain of the obligations under the Compensation and Benefits Programs are entitled to priority treatment under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. Specifically, under section 507(a)(4)(A) of the Bankruptcy Code, claims of employees for "wages, salaries, or commissions, including vacation, severance, and sick leave pay" earned within 180 days before the Petition Date are afforded priority unsecured status up to $13,650 per individual. 11 U.S.C. § 507(a)(4)(A). Thus, virtually all the Compensation obligations are priority claims that, in any event, will have to be paid in full. Accordingly, the Debtors request

entry of the proposed Interim Order authorizing the Debtors to pay Compensation in an aggregate amount not to exceed the Interim Amount subject to the $13,650 cap, followed by the final hearing on this Motion authorizing the Debtors to pay all other outstanding Compensation obligations.

81. Further, no party in interest will be prejudiced by the relief requested by this Motion because all claims asserted under the Compensation and Benefits Programs are unimpaired under the Prepackaged Plan and will be paid in full. Thus, the relief requested herein seeks to alter only the timing, not the amount or priority, of such payments.

82. Finally, payment of the Payroll Processing Fees and the other administrative fees in connection with the Compensation and Benefits Programs also is necessary. Without the continued services of the Payroll Processors, the Medical Plan Administrator, and the Life Insurance Program Administrator, among others, the Debtors will be unable to continue to honor their obligations to Employees in an efficient and cost-effective manner and maintain their employee base, both of which are critical to the smooth functioning of the Debtors' operations.

B. Payment of Certain Obligations in Connection with the Compensation and Benefits Programs Is Required by Law

83. The Debtors seek authority to remit the Withholding Obligations to the appropriate third parties. These amounts principally represent Employee earnings that governments, judicial authorities, and Employees themselves have designated for deduction from their paychecks. Indeed, certain Deductions, including contributions to the Health and Welfare Programs and child support and alimony payments, are not property of the Debtors' estates because they have been withheld from Employees' paychecks on another party's behalf. *See* 11 U.S.C. § 541(b) ("Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the

debtor does not hold"). Further, federal, state and foreign laws require the Debtors and their officers to make certain tax payments that have been withheld from their Employees' paychecks. *See* 26 U.S.C. § 6672, 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95–97 (3d Cir. 1994) (finding that a state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re Am. Int'l Airways, Inc.*, 70 B.R. 102, 103 (Bankr. E.D. Pa. 1987) (holding that funds held in trust for federal excise and withholding taxes are not property of a debtor's estate); *DuCharmes & Co., Inc. v. Michigan (In re DuCharmes & Co.)*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Deductions and Payroll Taxes are not property of the Debtors' estates, the Debtors request that the Court authorize them to transmit the Deductions and Payroll Taxes to the proper parties in the ordinary course of business.

C. Continuation of the Non-Insider Employee Incentive Programs and the Non-Insider Severance Program Does Not Implicate Section 503(c) of the Bankruptcy Code

84. The Debtors request authority to continue the Non-Insider Employee Incentive Programs and the Non-Insider Severance Program. Neither the Non-Insider Employee Incentive Programs nor the Non-Insider Severance Program implicate sections 503(c)(1) or 503(c)(2) of the Bankruptcy Code because no payments thereunder will be made to Insiders. *See* 11 U.S.C. § 503(c)(1)–(2).

85. As discussed herein, the Debtors have substantial business justification for continuing the Non-Insider Employee Incentive Programs and the Non-Insider Severance Program in the ordinary course of business, including (i) maintaining Employee morale, (ii) disincentivizing Employees to pursue other employment opportunities, and (iii) reassuring Employees that the Debtors intend to honor their obligations to Employees—both during and after their tenure with

the Debtors. Further, former-International Employees entitled to severance payments under the Non-Insider Severance Program may not be familiar with the chapter 11 process, and absent the relief sought herein, may seek remedies against the Debtors within the United Kingdom for Severance Claims that come due during the pendency of these chapter 11 cases. Given the potential harm and expense associated with participating in such proceedings in a foreign jurisdiction, the relatively small amounts to be made on account of the Severance Claims in the Interim Period, and that such claims are unimpaired and entitled to payment in full under the Prepackaged Plan, the Debtors believe payment of the Severance Claims as provided for herein is in the best interest of the Debtors, their estates, and all parties in interest.

86. Courts in this jurisdiction have permitted debtors to maintain their prepetition employee incentive programs during the pendency of chapter 11 cases. *See, e.g.*, *In re PhaseRx*, Ch. 11 Case No. 17-12890 (CSS) (Bankr. D. Del. Jan. 2, 2018); *In re Real Indus.*, Ch. 11 Case No. 17-12464 (KJC) (Bankr. D. Del. Dec. 19, 2017). Courts in this jurisdiction also have permitted debtors to continue existing severance programs and pay severance obligations that become due in the ordinary course to non-Insider employees who are terminated postpetition. *See, e.g.*, *In re TK Holdings Inc.*, Ch. 11 Case No. 17-11375 (BLS) (Bankr. D. Del. July 26, 2017); *In re Aspect Software Parent, Inc.*, Ch. 11 Case No. 16-10597 (MFW) (Bankr. D. Del. April 1, 2016); *In re RCS Capital Corporation*, Ch. 11 Case No. 16-10223 (MFW) (Bankr. D. Del. Feb. 23, 2016).

87. The Non-Insider Employee Incentive Programs and the Non-Insider Severance Program do not implicate section 503(c)(3) of the Bankruptcy Code because they were commenced within the ordinary course of the Debtors' business. *Cf.* 11 U.S.C. § 503(c)(3) (prohibiting certain payments "outside of the ordinary course of business"). If section 503(c) of the Bankruptcy Code is not implicated, the Court may grant the requested relief if it finds that the

Non-Insider Employee Incentive Programs and the Non-Insider Severance Program satisfy the requirements of section 363(b) of the Bankruptcy Code. *See In re Mesa Air Group, Inc.*, Ch. 11 Case No. 10-10018 (MG), 2010 WL 3810899, at *3 (Bankr. S.D.N.Y. Sept. 24, 2010) (noting that compensation plans commenced within the ordinary course of business are governed by section 363 of the Bankruptcy Code, not section 503(c)).

88. For the reasons stated, continuation of the Non-Insider Employee Incentive Programs and the Non-Insider Severance Program—like all of the relief sought in this Motion—is critical and necessary to assuage Employee fears and motivate them to achieve the Debtors' chapter 11 objectives. Accordingly, the requested relief should be approved.

D. Cause Exists to Authorize Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers

89. The Debtors have sufficient funds to pay the amounts on account of the Compensation and Benefits Programs in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor-in-possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Compensation and Benefits Programs. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that the Court should authorize the Banks, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the relief requested herein, solely to the extent that the Debtors have sufficient funds standing to their credit with such Banks, and such Banks may rely on the representations of the Debtors without any duty of further inquiry and without liability for following the Debtors' instructions.

Reservation of Rights

90. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

91. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a Bankruptcy Court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one (21) days after the filing of the petition. Fed. R. Bankr. P. 6003(b). As described above, the Debtors' failure to honor their obligations in connection with the Compensation and Benefits Programs would cause severe personal hardship to the Debtors' Workforce and likely would result in attrition at a time when the Debtors need their Workforce to perform at peak efficiency. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 6004(a) and (h)

92. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances,

and waive the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy Rule 6004(a) have been satisfied and to grant a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

93. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; (xii) the Banks; and (xiii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is

seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

RICHARDS, LAYTON & FINGER, P.A.
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-and-

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (*pro hac vice* admission pending)
Robert J. Lemons (*pro hac vice* admission pending)
Katherine Theresa Lewis (*pro hac vice* admission pending)
767 Fifth Avenue
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Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs in the ordinary course of business as provided in the Motion and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations, including processing and administrative fees, on account of the Compensation and Benefits Programs in amounts not to exceed $2,665,614 in the aggregate on an interim basis; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay or honor any prepetition obligations on account of the Non-Insider Employee Incentive Programs.

3. Payments for prepetition obligations on account of Compensation or Paid Time Off each shall not exceed the statutory caps set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

4. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

5. The Debtors are authorized, but not directed, to continue to administer the Compensation and Benefits Programs in the ordinary course of business; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay any obligations arising under the Non-Insider Employee Incentive Programs.

6. The Debtors are authorized, but not directed, to modify, change, and discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

7. Nothing herein shall be deemed to (a) authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code, including any bonus or severance obligations, or (b) authorize the Debtors to cash out unpaid Paid Time Off upon termination of an Employee, unless applicable nonbankruptcy law requires such payment; provided that nothing in this Interim Order shall prejudice the Debtors' ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

8. Each of the Banks at which the Debtors maintain their accounts relating to the payment of obligations on account of the Compensation and Benefits Programs are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of obligations in connection with the Compensation and Benefits Programs as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

10. The payroll processors are authorized to honor and pay all checks presented for payment and electronic payment requests relating to the Compensation and Benefits Programs to the extent directed by the Debtors in accordance with this Interim Order, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

11. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively,

the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-debtor affiliate except as permitted by the Budget.

12. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

13. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

15. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

16. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

17. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)**

and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (Eastern Time) on _____, 2020**.

18. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

19. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	

FINAL ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs in the ordinary course of business as provided in the Motion and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion on a final basis (the "**Hearing**"), if necessary; and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations, including processing and administrative fees, on account of the Compensation and Benefits Programs in amounts not to exceed $3,255,589 in the aggregate absent further order of this Court.

3. Nothing contained in this Final Order is intended to be or shall be construed as an authorization or approval of any payment that otherwise would violate section 503(c) of the Bankruptcy Code.

4. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

5. The Debtors are authorized, but not directed, to continue to administer the Compensation and Benefits Programs in the ordinary course of business.

6. The Debtors shall provide counsel to the Ad Hoc First Lien Group information detailing (i) the aggregate quarterly or annual payments under the Non-Insider Employee Incentive Programs and (ii) the aggregate severance payments to be made to non-Insiders per its practices in the ordinary course no less than five (5) business days prior to any such payments.

7. The Debtors are authorized, but not directed, to modify, change, and discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

8. Each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations on account of the Compensation and Benefits Programs are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of obligations in connection with the Compensation and Benefits Programs as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

10. The Payroll Processors are authorized to honor and pay all checks presented for payment and electronic payment requests relating to the Compensation and Benefits Programs to the extent directed by the Debtors in accordance with this Final Order, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

11. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

12. Notwithstanding anything in the Motion or this Final Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively, the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition

financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Final Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Final Order to, or on behalf of, a non-debtor affiliate except as permitted by the Budget

13. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

14. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

15. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry.

16. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB JJ

Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Reimbursable Expenses, and Other Obligations on Account of Compensation and Benefits Programs and (B) Continue Compensation and Benefits Programs and (II) Granting Related Relief

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 4**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, REIMBURSABLE EXPENSES, AND OTHER OBLIGATIONS ON ACCOUNT OF COMPENSATION AND BENEFITS PROGRAMS AND (B) CONTINUE COMPENSATION AND BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of interim and final orders (i) authorizing the Debtors to (a) pay prepetition wages, salaries, reimbursable expenses, and other obligations on account of the Compensation and Benefits Programs in the ordinary course of business as provided in the Motion and (b) continue to administer the Compensation and Benefits Programs and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the interim relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, to pay and honor all prepetition obligations, including processing and administrative fees, on account of the Compensation and Benefits Programs in amounts not to exceed $2,665,614 in the aggregate on an interim basis; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay or honor any prepetition obligations on account of the Non-Insider Employee Incentive Programs.

3. Payments for prepetition obligations on account of Compensation or Paid Time Off each shall not exceed the statutory caps set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

4. The Debtors and any applicable third parties are authorized to continue to allocate and distribute Deductions and Payroll Taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' stated policies and prepetition practices.

5. The Debtors are authorized, but not directed, to continue to administer the Compensation and Benefits Programs in the ordinary course of business; provided that, pending entry of an order granting the relief requested in the Motion on a final basis, the Debtors shall not pay any obligations arising under the Non-Insider Employee Incentive Programs.

6. The Debtors are authorized, but not directed, to modify, change, and discontinue any of their Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course of business during these chapter 11 cases, in their discretion and without the need for further Court approval, subject to applicable orders entered in these chapter 11 cases, any agreements executed in contemplation of these chapter 11 cases, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

7. Nothing herein shall be deemed to (a) authorize the payment of any amounts subject to section 503(c) of the Bankruptcy Code, including any bonus or severance obligations, or (b) authorize the Debtors to cash out unpaid Paid Time Off upon termination of an Employee, unless applicable nonbankruptcy law requires such payment; provided that nothing in this Interim Order shall prejudice the Debtors' ability to seek approval of such relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

8. Each of the Banks at which the Debtors maintain their accounts relating to the payment of obligations on account of the Compensation and Benefits Programs are authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

9. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of obligations in connection with the Compensation and Benefits Programs as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

10. The payroll processors are authorized to honor and pay all checks presented for payment and electronic payment requests relating to the Compensation and Benefits Programs to the extent directed by the Debtors in accordance with this Interim Order, whether such checks were presented or electronic requests were submitted before or after the Petition Date.

11. Notwithstanding anything in the Motion or this Interim Order to the contrary, any payment made or action taken by any of the Debtors pursuant to the authority granted herein, as well as the exercise of any and all rights and authorizations granted or approved hereunder, shall be subject in all respects to, as applicable: (i) the orders approving the Debtors' use of cash collateral and/or postpetition debtor-in-possession financing facilities (collectively,

the "**DIP Orders**"); (ii) other documentation governing the Debtors' use of cash collateral and postpetition financing facilities; and (iii) the Budget (as defined in the DIP Orders). To the extent there is any inconsistency between the terms of any of the DIP Orders and this Interim Order, the terms of the DIP Order (or DIP Orders, as applicable) shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Interim Order to, or on behalf of, a non-debtor affiliate except as permitted by the Budget.

12. Nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order, is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code.

13. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

14. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

15. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

16. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry.

17. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)**

and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice shall be served upon (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) so as to be received by no later than **4:00 p.m. (prevailing Eastern Time) on June 30, 2020**.

18. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Interim Order.

19. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB KK

Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief

Docket #0019 Date Filed: 6/15/2020

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION SENIOR SECURED SUPERPRIORITY FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

By this motion (this "**Motion**"), Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully request entry of an interim order in the form attached hereto as **Exhibit A** (the "**Interim Order**"), and a final order (the "**Final Order**," and together with the Interim Order, collectively, the "**DIP Orders**"): (i) authorizing the Debtors to (a) enter into that certain *Senior Secured Super-Priority Debtor-In-Possession Credit Agreement*, a form of which is attached to the Interim Order as **Exhibit 2** (the "**DIP Credit Agreement**," and, together with any and all other

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Credit Documents (as defined in the DIP Credit Agreement), the "**DIP Documents**") to incur the postpetition financing (the "**DIP Financing**") in an aggregate principal amount of $60 million (the "**DIP Facility**" and the loans borrowed thereunder, the "**DIP Loans**"), including with respect to an interim withdrawal of up to $30 million prior to entry of the Final Order, and (b) use the Cash Collateral (as such term is defined in section 363(a) of the Bankruptcy Code); (ii) granting adequate protection to prepetition secured parties as provided herein; (iii) granting liens and superpriority claims; (iv) modifying the automatic stay; (v) scheduling a hearing to consider the relief requested herein on a final basis (the "**Final Hearing**"); and (vi) granting related relief.

In support of this Motion, the Debtors submit (i) the *Declaration of Christopher A. Wilson in Support of Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief*, filed contemporaneously herewith (the "**Wilson Declaration**") and (ii) the *Declaration of John Frederick in Support of Debtors' Chapter 11 Petitions and First Day Relief* filed contemporaneously herewith (the "**First Day Declaration**" and, together with the Wilson Declaration, the "**Declarations**") and incorporated herein by reference. The Debtors' initial budget (the "**Initial Approved Budget**") reflecting their anticipated cash receipts and anticipated disbursements is attached hereto as **Exhibit B**.

Preliminary Statement

1. The Debtors have negotiated a comprehensive, prenegotiated consensual restructuring (the "**Restructuring**") supported by each of their major creditor constituencies. This comprehensive Restructuring was memorialized in that certain Restructuring Support Agreement

dated as of June 12, 2020, annexed to the First Day Declaration as Exhibit B (the "**Restructuring Support Agreement**") by and between the Company and lenders, or investment advisors or managers for the account of lenders, representing approximately 81% in value of the Company's First Lien Debt and approximately 84% in value of the Second Lien Debt. By this Motion, the Debtors seek authorization to obtain the DIP Financing, which is backstopped by certain of the Debtors' First Lien Lenders, and approval of their entry into the DIP Credit Agreement and the DIP Documents.

2. As described herein, and as set forth in the DIP Credit Agreement, the DIP Financing provides the Debtors with (i) reasonable pricing, (ii) necessary liquidity, and (iii) customary budget covenants. In addition, the Debtors' proposed DIP Financing permits the Debtors to use Cash Collateral with the support of the prepetition secured lenders to see the Debtors' through their prepackaged chapter 11 cases. The DIP Financing and use of Cash Collateral are critical to ensure the Debtors' smooth entry into chapter 11 and their ability to operate their business prudently during the pendency of these prepackaged chapter 11 cases for the benefit of their stakeholders. The DIP Financing will provide sufficient liquidity to fund these chapter 11 cases and the Debtors' operations, and will demonstrate to the market that the Debtors are poised for a successful reorganization. In addition to the foregoing reasons, several compelling reasons justify the relief requested herein:

3. **The Debtors' Estates Will Suffer Immediate and Irreparable Harm Without the Requested Relief**: The Debtors are entering chapter 11 with very limited cash on hand and immediate access to the DIP Financing and Cash Collateral is thereby critical to ensure the Debtors' smooth entry into chapter 11 and ability to prudently operate their businesses during the pendency of these prepackaged chapter 11 cases. The Debtors believe the commencement of

these chapter 11 cases will place increased demands on liquidity due to, among other things, the costs of administering these chapter 11 cases and potential unforeseen impacts on the Debtors' operations and working capital needs that may result from the filing. The Debtors therefore submit that the requested relief is necessary to avoid the immediate and irreparable harm that would otherwise result if the Debtors are denied the vital liquidity that would be provided through their proposed interim borrowings and use of Cash Collateral.

4. **The Proposed DIP Financing Results From Vigorous and Arm's Length Negotiations**: The Debtors, with assistance from experienced financial and legal advisors, engaged with the Consenting Creditors—who had long experience with the Debtors and familiarity with their businesses—to provide DIP financing. Negotiations with the proposed DIP Lenders (as defined below) were conducted at arm's-length and were iterative and rigorous. The successful nature of this process is demonstrated by the terms of the DIP Facility and the Debtors' prepackaged chapter 11 cases. The Debtors believe the DIP Facility provides sufficient liquidity with customary budget-based restrictions, all at reasonable rates and with market fees. Importantly, the Debtors propose a limited, initial draw of $30 million on the terms as described herein.

5. **The Proposed DIP Financing Sends a Strong and Vital Message to the Market**: The Debtors expect that vendors, customers, employees, and other stakeholders will be highly focused on whether these prepackaged chapter 11 cases are appropriately funded to maximize the greatest possibility of success. In addition to the holistic support of the Debtors' creditors, as demonstrated by the execution of the Restructuring Support Agreement, access to DIP Financing will provide a strong message to the Debtors' customers, vendors, customers, and

competitors that these prepackaged chapter 11 cases are well-funded and that the Debtors are likely to successfully reorganize within the milestones set forth in the Restructuring Support Agreement.

6. **The Proposed DIP Lenders Have Proceeded in Good Faith**: The DIP Financing proposal was reviewed and analyzed by both the Debtors and their experienced professionals. As further detailed in the Declarations, the Debtors' negotiations with the prospective DIP Lenders and their advisors were conducted at arm's-length, with the assistance of the Debtors' advisors.

Jurisdiction

7. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court* for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

8. By this Motion, the Debtors request the following relief as provided in the DIP Orders:

- **DIP Financing**: authority to enter into the DIP Credit Agreement and related DIP Documents providing for a $60 million DIP Facility funded into an escrow account, of which up to $30 million may be drawn on an interim basis and up to an additional $30 million may be drawn on a final basis that, collectively, will provide the liquidity necessary to ensure that the

Debtors are able to continue operating their businesses without disruption during the pendency of these chapter 11 cases.

- **DIP Interest and Fees**: authority to pay:
    - an interest rate of LIBOR (with a 1% floor) plus 7.5% *per annum*;
    - default interest at 2% above the applicable rate set forth above; and
    - certain additional fees and expenses, including (i) an upfront commitment fee of 3.0% described in the DIP Credit Agreement, (ii) a backstop commitment fee of 2.5%, and (iii) administration fees, respectively**,** as described in that certain *Agent Fee Letter* by and among Skillsoft Corporation and Wilmington Savings Fund Society, FSB as administrative agent and collateral agent under the DIP Credit Agreement (the "**DIP Agent**"), and (iv) escrow agent fees as described in that certain *Escrow Agent Fee Letter* by and among Skillsoft Corporation and Wilmington Savings Fund Society, FSB as escrow agent under the DIP Credit Agreement (the "**DIP Escrow Agent**").[2]
- **DIP Liens and Claims**: authority to grant, in each case subject to the Carve Out (as defined in the Interim Order):
    - fully-perfected first priority lien on, and security interest in the DIP Collateral that is not subject to valid, perfected, non-avoidable and enforceable liens in existence on or as of the Petition Date or valid liens perfected (but not granted) after the Petition Date to the extent such postpetition perfection is expressly permitted by section 546(b) of the Bankruptcy Code, including, subject to entry of the Final Order, any Avoidance Proceeds;
    - fully-perfected first priority, senior priming lien on, and security interest in all DIP Collateral comprising the Prepetition Collateral;
    - junior liens on any Prepetition Collateral subject to Existing Senior Liens; and
    - superpriority administrative expense claims (the "**Superpriority DIP Claims**").
- **Cash Collateral**: authority to use Cash Collateral within the meaning of section 363(a) and 363(c) of the Bankruptcy Code.

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[2] Shortly after the filing of this Motion, the Debtors will file the *Motion of Debtors Pursuant to 11 U.S.C. §§ 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 for Entry of an Order Authorizing the Debtors to File the Proposed Debtor-in-Possession Financing Fee Letters Under Seal* seeking authority to file the *Agent Fee Letter* and the *Escrow Agent Fee Letter* under seal.

- **Adequate Protection**: approval of the form and manner of adequate protection to be provided to the Prepetition Secured Parties solely to the extent of any diminution in value, including:

    - replacement or, if applicable, new liens on and security interests in the DIP Collateral that are junior to the liens securing the DIP Facility (such replacement or new liens, the "**Adequate Protection Liens**");

    - superpriority claims as provided for in section 503(b) and 507(b) of the Bankruptcy Code that will have a priority in payment over any and all administrative expenses of the kinds (except the Superpriority DIP Claims) specified or ordered pursuant to any provision of the Bankruptcy Code (the "**Adequate Protection Super Priority Claims**"); and

    - the payment of all reasonable and documented out-of-pocket fees and expenses payable to the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group, whether incurred pre- or post-petition.

- **Modification of the Automatic Stay**: modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and the DIP Orders, with actions against the DIP Collateral requiring at least five business days' notice to the Debtors.

- **Immediate Effectiveness**: waiver of any applicable stay, including (to the extent applicable) under Bankruptcy Rule 6004, to provide for immediate effectiveness of the Interim Order.

- **Final Hearing**: scheduling a date for a hearing on this Motion to consider entry of the Final Order no later than twenty-five (25) days after the Petition Date.

Concise Statement Pursuant to Bankruptcy Rule 4001

9. Pursuant to Bankruptcy Rules 4001(b), (c) and (d), the following is a concise statement and summary of the proposed material terms of the DIP Documents and Orders:[3]

Term	Summary
Borrower Fed. R. Bankr. P. 4001(c)(1)(B)	Skillsoft Corporation (the "**Borrower**"). DIP Credit Agreement Preamble.

[3] This statement is qualified in its entirety by reference to the applicable provisions of the DIP Documents. To the extent there exists any inconsistency between this concise statement and the provisions of the DIP Documents or the DIP Orders, the provisions of the DIP Documents or the DIP Orders, as applicable, shall control.

Term	Summary
Guarantors Fed. R. Bankr. P. 4001(c)(1)(B)	Each Subsidiary of Pointwell Limited (the "**Parent**") that is party to a Guarantee on the Closing Date, (ii) each Subsidiary of the Parent that becomes a party to a Guarantee after the Closing Date pursuant to Section 9.11 of the DIP Credit Agreement or otherwise and (iii) the Parent; provided that (i) in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary) (ii) in no event shall any Immaterial Subsidiary be required to be a Guarantor (unless expressly requested by the Required Lenders in writing after the Closing Date) and (iii) in no event shall any Subsidiary that is described in clauses (b) or (c) of the definition of "Excluded Subsidiary" be a Guarantor. Each Debtor aside from the Borrower is a Guarantor. DIP Credit Agreement § 1.1 "Guarantor."
DIP Lenders Fed. R. Bankr. P. 4001(c)(1)(B)	Each lender party to the DIP Credit Agreement and their permitted successors and assigns (collectively, the "**DIP Lenders**"). DIP Credit Agreement Preamble.
DIP Agent Fed. R. Bankr. P. 4001(c)(1)(B)	Wilmington Savings Fund Society, FSB will serve as DIP Agent and DIP Escrow Agent. DIP Credit Agreement Preamble.
DIP Facility Fed. R. Bankr. P. 4001(c)(1)(B)	A senior secured super-priority term loan credit facility in the aggregate principal amount of $60 million. DIP Credit Agreement Preamble.
Borrowing Limits Fed. R. Bankr. P. 4001(c)(1)(B)	Upon entry of the Interim Order, $30 million. Following entry of the Final Order (as defined below), and subject to the terms of the DIP Credit Agreement, an additional $30 million. DIP Credit Agreement § 1.1 "Maximum Withdrawal Amount."
Budget Fed. R. Bankr. P. 4001(c)(1)(B)	The Initial Approved Budget is attached hereto as **Exhibit B**. The Approved Budget shall be updated not less than once every four (4) weeks. DIP Credit Agreement § 9.18(a), Interim DIP Order ¶ 4.
Use of DIP Proceeds and Cash Collateral Fed. R. Bankr. P. 4001(c)(1)(B)(ii);(c)(1)(B)	The use of Cash Collateral and proceeds of the DIP Loans shall be used (i) to pay related transaction costs, fees and expenses (including attorney's fees required to be paid hereunder and to fund the Carve Out) with respect to the DIP Facility, (ii) to make the Adequate Protection Payments in accordance with the Approved Budget and the DIP Order, (iii) to fund the operation of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, and (iv) to provide working capital, and for other general corporate purposes of the Credit Parties and their Subsidiaries, and to pay administration costs of the Chapter 11 Cases and claims or amounts approved by the Court in accordance with the Approved Budget (subject to the Permitted Variance). DIP Credit Agreement § 8.22.
Cross Collateralization Fed. R. Bankr. P. 4001(c)(1)(B) Local Rule 4001-2(a)(i)(A)	None, other than the Adequate Protection Liens.
Identity of Each Entity with Interest in Cash Collateral Fed. R. Bankr. P. 4001(b)(1)(B)(i)	The Prepetition Secured Parties have an interest in the Cash Collateral. Interim DIP Order ¶ E.

Term	Summary
Interest Rates Fed. R. Bankr. P. 4001(c)(1)(B)	The DIP Facility will accrue interest at LIBOR (with a 1% floor) plus 7.5% *per annum*. The default rate with respect to the outstanding principal amount of any DIP Loan under the DIP Facility will be the applicable interest rate of such DIP Loan plus 2% *per annum*. DIP Credit Agreement §§ 1.1 "Applicable Margin," 2.8.
Maturity Date Fed. R. Bankr. P. 4001(c)(1)(B);	The DIP Loans will mature on the earliest to occur of (a) the date that is three months after the Petition Date; provided that by written consent, Required Lenders may extend such maturity date to that date that is four months after the Petition Date, (b) the date on which the Obligations become due and payable pursuant to this Agreement, whether by acceleration or otherwise, (c) the effective date of a Chapter 11 Plan for the Debtors, (d) the date of consummation of a sale of all or substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code, (e) the first Business Day on which the Interim Order or the Canadian Supplemental Order expires by its terms, unless the Final Order or the Canadian Final Order, as applicable, has been entered and become effective prior thereto, (f) conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or any Credit Party shall file a motion or other pleading seeking the conversion of the Chapter 11 Cases to Chapter 7 of the Bankruptcy Code unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), (g) proceedings under or pursuant to the BIA have been commenced in respect of Skillsoft Canada, Ltd. unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from either of the Specified Lender Advisors), (h) dismissal or termination of any of the Chapter 11 Cases or the Canadian Recognition Proceeding, unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), and (i) the Final Order or the Canadian Final Order (once entered) is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders) (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors). DIP Credit Agreement § 1.1 "Maturity Date."
Financial Covenants Fed. R. Bankr. P. 4001(c)(1)(B)	The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) on or before 5:00 p.m. (New York City time) on Thursday of every other week (commencing on the third Thursday following the first full week after the Closing Date), an Approved Budget Variance Report which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period and include the materials and certifications set forth in Section 9.18 of the DIP Credit Agreement. An Approved Budget Variance Report shall be a report provided by the Borrower to the Administrative Agent (a) showing, in each case, on a cumulative basis, the Actual Cash Receipts and the Actual Operating Disbursement Amounts as of the last day of the Variance Testing Period then most recently ended, noting therein (i) all variances, on a cumulative basis, from the Budgeted Cash Receipts and the Budgeted Operating Disbursement Amounts for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance in such Variance Testing Period with the Permitted Variances and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the

Term	Summary
	actions which the Borrower has taken or intend to take with respect thereto and (b) which such reports shall be in a form reasonably satisfactory to the Required Lenders. DIP Credit Agreement §§ 1.1, 9.18, 9.19.
Collateral and Priority Fed. R. Bankr. P. 4001(c)(1)(B)(i)	The DIP Collateral consists of the following security interests and liens, subject only to (x) the Carve Out and (y) the Existing Senior Liens: i. Previously Unencumbered Property: all property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code), excluding all Avoidance Actions but subject to entry of a Final Order, any Avoidance Proceeds. ii. Priming Prepetition Liens: all property of the Debtors subject to the Prepetition Liens (subject to the Carve Out) including, without limitation, the Prepetition Collateral and Cash Collateral. DIP Credit Agreement § 1.1 "DIP Collateral", Interim DIP Order ¶ 7.
Adequate Protection Fed. R. Bankr. P. 4001(b)(1)(B)(iv), (c)(1)(B)(ii)	Approval of the form and manner of adequate protection to be provided to the Prepetition Secured Parties solely to the extent of any diminution in value, including: i. replacement or, if applicable, new liens on and security interests in the DIP Collateral that are junior to the liens securing the DIP Facility; ii. superpriority claims as provided for in section 503(b) and 507(b) of the Bankruptcy Code that will have a priority in payment over any and all administrative expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code; and iii. the payment of all reasonable and documented out-of-pocket fees and expenses payable to the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group, whether incurred pre- or post-petition. Interim DIP Order ¶ 8.
Debtors' Stipulations Fed. R. Bankr. P. 4001(c)(1)(B)(iii), (viii) **Local Rule 4001-2(a)(i)(B)** Findings of fact that bind the estate to the validity, perfection, or amount of the secured creditors' prepetition lien or waiver of claims against the secured creditors	**Stipulations**: The Debtors stipulate to, among other things: i. As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition First Lien Secured Parties pursuant to the Prepetition First Lien Credit Documents, for Prepetition First Lien Term Loans in the aggregate principal amount of $1,290,000,000 and Prepetition First Lien Revolving Loans in the aggregate principal amount of $80,000,000, each *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, and obligations. ii. As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition Second Lien Secured Parties pursuant to the Prepetition Second Lien Credit Documents, for Prepetition Second Lien Term Loans in the aggregate

Term	Summary
	principal amount of $670,000,000 *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, and obligations. iii. The Prepetition First Lien Obligations are secured by valid, binding, perfected first-priority security interests in and liens on the "Collateral", as defined in the Prepetition First Lien Security Agreement, consisting of substantially all of the Debtors' material assets, except as may be set forth in the Prepetition First Lien Security Agreement. iv. Pursuant to the Prepetition Second Lien Security Agreement and the other Prepetition Second Lien Credit Documents, the Prepetition Second Lien Obligations are secured by valid, binding, perfected second-priority security interests in and liens on the Prepetition Collateral. v. Any and all of the Debtors' cash, including (i) amounts on deposit or maintained in any account or accounts by the Debtors, (ii) any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral existing as of the Petition Date, and (iii) the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of Bankruptcy Code section 363(a); Notwithstanding anything to the contrary in the Interim Order, the Debtors do not agree or acknowledge that the Prepetition Liens are perfected on cash in any accounts with institutions that are not the Prepetition Agents or Prepetition Secured Parties. Interim DIP Order ¶ E. **Challenge Period**: The Debtors' Stipulations shall be binding upon all other parties in interest, including any Committee and any other person acting on behalf of the Debtors' estates, unless and to the extent that a party in interest with proper standing granted by order of the Court (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (i) before the earlier of (a) except as to any Committee, seventy-five (75) calendar days after entry of the Interim Order, (b) in the case of any such adversary proceeding or contested matter filed by any Committee, sixty (60) calendar days after the appointment of such Committee, and (c) the date of entry of an order confirming a chapter 11 plan, subject to further extension by written agreement of the Prepetition First Lien Agent (acting at the direction of the Required Prepetition First Lien Lenders) and the Prepetition Second Lien Agent (acting at the direction of the Required Prepetition Second Lien Lenders); provided, however, that if, prior to the end of a Challenge Period (x) the cases are converted to chapter 7, or (y) a chapter 11 trustee is appointed, then, in each such case, the Challenge Period applicable to the chapter 7 trustee or the chapter 11 trustee shall be the time remaining under the applicable Challenge Period plus ten (10) days; (ii) seeking to avoid, object to, or otherwise challenge the findings or Debtors' Stipulations regarding: (a) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agents and the Prepetition Secured Parties; or (b) the validity, enforceability, allowability, priority, secured status, or amount of the Prepetition Obligations, and (iii) in which the Court enters a final order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter.

Term	Summary
	Upon the expiration of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is filed and overruled): (a) any and all such Challenges by any party (including the Committee, if any, any chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Cases) shall be deemed to be forever barred; (b) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in the Debtors' Cases and any Successor Cases; (c) the Prepetition Indebtedness shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected secured claims, not subject to recharacterization, subordination, or avoidance; and (d) all of the Debtors' stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Debtors, the Debtors' estates, and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases. Furthermore, if any such adversary proceeding or contested matter is timely and properly filed under the Bankruptcy Rules, the stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Challenge Period Termination Date. Interim DIP Order ¶ 13.
Material Conditions to Closing Fed. R. Bankr. P. 4001(c)(1)(B)	The effectiveness of the DIP Credit Agreements and the occurrence of the Closing Date, as well as the conditions to withdrawal, are subject to the satisfaction, or waiver by the agent, of conditions precedent customary for financings of this type and are set forth at Sections 6 and 7 of the DIP Credit Agreement. DIP Credit Agreement §§ 6, 7.
Indemnification Fed. R. Bankr. P. 4001(c)(1)(B)(ix)	The Debtors shall jointly and severally indemnify and hold harmless the DIP Lenders, the DIP Agent, the DIP Agent respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members. Interim DIP Order ¶ 18.
Events of Default Fed. R. Bankr. P. 4001(c)(1)(B)	Events of default include, but are not limited to: nonpayment of obligations; defaults under covenants; failure to meet any of the milestones set forth in the Credit Agreement; failure to use the proceeds in accordance with the Approved Budget; the occurrence of an RSA Termination Event; appointment of a bankruptcy trustee or examiner, dismissal or conversion of these Chapter 11 Cases, certain adverse motions or Bankruptcy Court orders, termination of the Interim Order, and various other bankruptcy related defaults. DIP Credit Agreement § 11.1.
Milestones Fed. R. Bankr. P. 4001(c)(1)(B)(vi)	In addition to customary milestones relating to entry of the Interim and Final Order and other procedural matters, the DIP Credit Agreement contains the following milestones:

Term	Summary
	i. By no later than one Business Day following the Petition Date, the Borrower shall file a Prepack Scheduling Motion seeking entry of the Prepack Scheduling Order, in form and substance reasonably acceptable to the Required Lenders. ii. By no later than three Business Days following the Petition Date, the Bankruptcy Court shall enter (i) the Interim Order, and (ii) the Prepack Scheduling Order. iii. By no later than four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada Ltd. shall have commenced the Canadian Recognition Proceeding. iv. By no later than twenty-five calendar days following the Petition Date, the Bankruptcy Court shall enter the Final Order authorizing the DIP Facility, in form and substance reasonably acceptable to the Required Lenders and the Borrower. v. By no later than four Business Days following the entry of the Final Order, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Final Order. vi. By no later than sixty calendar days following the Petition Date, the Bankruptcy Court shall enter an order confirming the Chapter 11 Plan, in form and substance reasonably acceptable to the Required Lenders and the Borrower. vii. By no later than four Business Days following the entry of the order confirming the Chapter 11 Plan, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Confirmation Order. viii. By no later than eighty calendar days following the Petition Date, the effective date of the Chapter 11 Plan shall have occurred. DIP Credit Agreement § 9.21.
Release 4001(c)(1)(B)(viii)	Subject to the rights and limitations in paragraphs E(v) and 12 of the Interim Order, each of the Debtors is providing a release of claims to the DIP Secured Parties and the Prepetition Secured Parties and their related parties relating to the DIP Obligations, DIP Liens, DIP Documents, the Prepetition Obligations, the Prepetition Liens, or the Prepetition Credit Documents. Interim DIP Order ¶ 25.
Liens on Avoidance Actions Fed. R. Bankr. P. 4001(c)(1)(B)(xi); Fed. R. Bankr. P. 4001(c)(1)(B)(viii) L.R. 4001-2(a)(i)(D)	Upon entry of the Final Order granting such relief, the DIP Agent, for the benefit of the DIP Lenders, shall be granted DIP Liens any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code. Interim DIP Order ¶ 7.

Term	Summary
Waiver or Modification of the Automatic Stay Fed. R. Bankr. P. 4001(c)(1)(B)(iv)	Each Debtor is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Documents. Interim DIP Order ¶ 3.
Waiver or Modification of Applicability of Non-Bankruptcy Law Relating to the Perfection or Enforcement of a Lien Fed. R. Bankr. P. 4001(c)(1)(B)(vii)	All of the DIP Liens shall be effective and perfected upon entry of the Interim Order and without the necessity of the execution of the mortgages, security agreements, pledge agreements, or similar undertakings. Interim DIP Order ¶ 23.
Section 506(c) Waiver Fed. R. Bankr. P. 4001(c)(1)(B)(x) L.R 4001-2(a)(i)(C)	Upon entry of the Final Order granting such relief, the right of the Debtors to surcharge the Prepetition Collateral under section 506(c) of the Bankruptcy Code shall be waived. Interim DIP Order ¶ 16.
Section 522(b) Waiver Fed. R. Bankr. P. 4001(c)(1)(B) LR 4001-2(a)(i)(H)	Subject to and upon entry of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties or the DIP Secured Parties with respect to proceeds, product, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral. Interim DIP Order ¶ 36.

Highlighted Provisions Pursuant to Local Rule 4001-2

10. Pursuant to Local Rule 4001-2, the terms of the DIP Facility contain the following provisions. To the extent covered in the above summary chart and indicated as such, this table shall not repeat such provision:

Term	Summary
Local Rule 4001-2(a)(ii) Summary of essential terms	See table above.
Local Rule 4001-2(a)(i)(E) Provisions which deem prepetition secured debt to be postpetition debt or which use post-petition loans from a prepetition secured creditor to pay part or all of that secured creditors' prepetition debt	None.

Local Rule 4001-2(a)(i)(F) Provisions that provide disparate treatment for the professionals retained by a creditors' committee from those professionals retained by the debtor with respect to a professional fee carve out	None.
Local Rule 4001-2(a)(i)(G) Nonconsensual priming	No nonconsensual priming liens will be granted or provided.

Prepetition Capital Structure

11. As of the Petition Date, the Company's prepetition capital structure consists of approximately $2.1 billion in total funded debt, made up of: (i) a first lien term loan facility in an original principal amount of $900 million and an incremental facility in an original principal amount of $465 million incurred on September 30, 2014, and under which approximately $1.29 billion of principal amount is outstanding; (ii) a first lien revolving credit facility in an aggregate principal amount not to exceed $80 million, under which approximately $79.5 million of revolving loans are outstanding and letters of credit with an aggregate face amount of approximately $500,000 were issued; (iii) a second lien term loan facility in an original principal amount of $485 million and an in incremental facility in an original payment amount of $185 million incurred on September 30, 2014, and under which approximately $670 million of principal amount is outstanding (the foregoing (i)-(iii), collectively, the "**Debtor Obligations**"); and (iv) an up to $90 million accounts receivables-backed facility borrowed by non-Debtor Skillsoft Receivables Financing LLC (the "**AR Borrower**"), under which approximately $68 million is outstanding (the "**Non-Debtor Obligations**" and, (i)-(iv), collectively, the "**Funded Debt Obligations**"). The Funded Debt Obligations are summarized in more detail below:

A. Debtor Obligations

1. First Lien Debt

12. On April 28, 2014, certain of the Debtors, among others, entered into that certain *First Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**First Lien Credit Agreement**") by and among (i) Evergreen Skills Intermediate Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 186.054 ("**Holdings**"); (ii) Evergreen Skills Lux S.à r.l., a private limited liability company, incorporated under the laws of Luxembourg, having its registered office at 8, rue Notre-Dame, L-2240 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register under number B 185.790 (the "**Lux Borrower**"), Skillsoft Canada Ltd., a New Brunswick corporation (the "**Canadian Borrower**" or "**Skillsoft Canada**"), and Skillsoft (the "**U.S. Borrower**" and, collectively with the Lux Borrower and the Canadian Borrower, the "**First Lien Borrowers**"), as borrowers; (iii) the various lenders from time to time party thereto (collectively, the "**First Lien Lenders**"); and (iv) Wilmington Savings Fund Society, FSB ("**WSFS**") (as successor agent to Barclays Bank PLC ("**Barclays**")), as administrative and collateral agent (in such capacity, the "**First Lien Agent**"), pursuant to which the First Lien Lenders agreed to provide the First Lien Borrowers with the First Lien Term Loan Facility and the First Lien Revolving Credit Facility (each, as defined below). As of the Petition Date, an aggregate principal amount of approximately $1.29 billion was outstanding under the First Lien Credit Agreement (the "**First Lien Debt**"). The First Lien Borrowers' obligations under the First Lien Credit Agreement are guaranteed by certain subsidiaries of the

Company (collectively, the "**Subsidiary Guarantors**"), the First Lien Borrowers, and Holdings. The First Lien Debt is secured by a first-priority security interest in substantially all of the assets, subject to certain limitations and exclusions, of Holdings, the First Lien Borrowers, and the Subsidiary Guarantors. A description of each of the First Lien Term Loan Facility and the First Lien Revolving Facility are set forth below.

ix. The First Lien Term Loan Facility

13. Pursuant to the First Lien Credit Agreement, certain of the First Lien Lenders agreed to provide (i) on the original closing date the Lux Borrower and the U.S. Borrower with term loans in an original aggregate principal amount of $900 million and (ii) on September 30, 2014 an incremental $465 million of term loans (collectively, the "**First Lien Term Loan Facility**" and the loans thereunder, the "**First Lien Term Loans**"). The First Lien Term Loan Facility matures in April 2021. As of the Petition Date, an aggregate balance of approximately $1.29 billion in principal amount of First Lien Term Loans remains outstanding.

x. First Lien Revolving Credit Facility

14. Pursuant to the First Lien Credit Agreement, certain of the First Lien Lenders agreed to provide the First Lien Borrowers with revolving commitments in an aggregate principal amount of up to $100 million; the revolving commitments were subsequently reduced to $80 million (the "**First Lien Revolving Facility**" and the loans thereunder, the "**First Lien Revolving Loans**"). The First Lien Revolving Facility matures in October 2020. As of the Petition Date, an aggregate balance of approximately $79.5 million in principal amount of First Lien Revolving Loans remains outstanding and letters of credit with an aggregate face amount of approximately $500,000 were issued.

2. Second Lien Debt

15. On April 28, 2014, certain of the Debtors, among others, entered into that certain *Second Lien Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Second Lien Credit Agreement**") by and among (i) Holdings; (ii) the Lux Borrower and the U.S. Borrower, as borrowers (collectively, the "**Second Lien Borrowers**"); (iii) the various lenders from time to time party thereto (collectively, the "**Second Lien Lenders**", with the First Lien Lenders, the "**Prepetition Secured Parties**"), and WSFS (as successor agent to Barclays), as administrative and collateral agent (in such capacity, the "**Second Lien Agent**"), pursuant to which the Second Lien Lenders agreed to provide (i) on the original closing date, the Second Lien Borrowers with term loans in an aggregate principal amount of up to $485 million and (ii) on September 30, 2014 an incremental $185 million of loans (the "**Second Lien Term Loan Facility**" and the loans thereunder, the "**Second Lien Loans**").

16. The Second Lien Term Loan Facility matures in April 2022. As of the Petition Date, an aggregate principal amount of approximately $670 million was outstanding under the Second Lien Credit Agreement (the "**Second Lien Debt**"). The Second Lien Borrowers' obligations under the Second Lien Credit Agreement are guaranteed by Holdings, the Second Lien Borrowers, and the Subsidiary Guarantors. The Second Lien Debt is secured by a second-priority security interest in substantially all of the assets, subject to certain limitations and exclusions, of Holdings, the Second Lien Borrowers, and the Subsidiary Guarantors, with such security interests junior in all respects to the First Lien Debt.

3. Intercreditor Agreement

17. The relative contractual rights of the holders of First Lien Debt, on the one hand, and the holders of Second Lien Debt, on the other hand, are governed by that certain *First*

Lien/Second Intercreditor Agreement, dated as of April 28, 2014 (as amended, supplemented, amended and restated or otherwise modified from time to time, the "**Intercreditor Agreement**"). The Intercreditor Agreement controls the rights and obligations of holders of First Lien Debt and Second Lien Debt with respect to, among other things, priority of security over collateral, matters of debtor-in-possession financing, the use of cash collateral, and adequate protection.

B. Non-Debtor Obligations

18. On December 20, 2018, the AR Borrower entered into that certain *Credit Agreement* (as may be amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**AR Facility Agreement**" and the facility provided thereunder, the "**Existing AR Facility**") by and between (i) the AR Borrower, as borrower; (ii) the lenders party thereto (collectively, the "**AR Facility Lenders**"); and (iii) CIT Bank, N.A., as administrative agent, collateral agent, and accounts bank (the "**AR Facility Agent**"). Pursuant to the AR Facility Agreement, the AR Facility Lenders agreed to provide the AR Borrower with revolving loans, subject to borrowing base availability, comprised of a Class A revolving line of credit up to $75 million and a Class B revolving line of credit up to $15 million. The Class B revolving line of credit was added to the AR Facility Agreement pursuant to that certain *Amendment No. 2* to the AR Facility Agreement, entered into on September 9, 2019 to (i) upsize advance rates to 95% and (ii) allow for the implementation of an incremental $15 million tranche of subordinated debt under the AR Agreement.

19. The AR Borrower's obligations under the AR Facility Agreement are secured by substantially all of the assets of the AR Borrower. Certain of the Debtors are "Originators" (as defined in the AR Facility Agreement) under the Existing AR Facility, originating receivables which are then sold to the AR Borrower. The Originators continue to

service the receivables sold to the AR Borrower and remit to the AR Borrower the proceeds of such receivables collected. However, none of the Originators or other Debtors guaranteed the obligations in connection with the Existing AR Facility except in limited circumstances relating to a breach by such Originator of certain representations or warranties made in respect of the underlying receivables sold by such Originator. After giving effect to that certain *Amendment No. 3* to the AR Facility Agreement, executed on June 12, 2020, the revolving period under the AR Facility Agreement is scheduled to terminate upon the earlier of (i) December 2023, (ii) the Effective Date, and (iii) the occurrence of certain other events specified under the AR Facility Agrement. As of the Petition Date, an aggregate principal amount of approximately $68 million was outstanding under the Existing AR Facility.

20. Pursuant to the Restructuring Support Agreement and *Amendment No. 3* to the AR Facility Agreement (which amendment modified the AR Facility Agreement to allow for continued funding during the pendency of the chapter 11 cases), the Existing AR Facility shall remain in place and the AR Facility Lenders shall, subject to the terms and conditions set forth in the AR Facility Agreement, continue to fund under the Existing AR Facility through consummation of the Plan. Additionally, pursuant to the Cooperation Agreement, the Class B Lenders remain obligated to and will continue to make credit extensions to the AR Borrower in the ordinary course through the Effective Date to the extent that the Class A Lenders continue to make credit extensions through the Effective Date. On the Effective Date, the AR Facility Agreement is contemplated to be amended and restated into an exit AR Facility Agreement (the "**Exit AR Facility Agreement**") in a principal amount of up to $75 million, secured on the same basis as the Existing AR Facility, on terms that are materially consistent with the AR Agreement; *provided, however,* that all provisions relating to the Class B Loans may be modified to remove

the Class B revolving line of credit or to replace the Class B Lender. The Debtors are currently in negotiations with the AR Facility Agent regarding the terms of the Exit AR Facility Agreement.

Debtors' Liquidity Needs and Marketing Efforts

A. Debtors Have an Immediate Need to Use Cash Collateral and Obtain DIP Financing

21. The Debtors are entering chapter 11 with limited cash on hand and require access to the DIP Financing and authority to use Cash Collateral to ensure they have sufficient liquidity to operate their businesses and administer their estates during these chapter 11 cases. The DIP Facility will provide the Debtors with the liquidity necessary to, among other things, make payroll and satisfy their other working capital and general corporate purposes, including essential payments to vendors and service providers.

22. Prior to the Petition Date, the Debtors, in consultation with their professionals, reviewed and analyzed projected cash needs and prepared an initial analysis outlining the Debtors' postpetition cash need that would be reasonably required to complete the Debtors' prepackaged chapter 11 cases. This analysis included among other things, (i) the potential acceleration of demands on available liquidity; (ii) the availability to draw under the Existing AR Facility Agreement; and (iii) the potential impact of COVID-19. Based on the Debtors' analysis, the Debtors determined they would be unable to fund these chapter 11 cases based on Cash Collateral alone and would need incremental liquidity in the form of additional DIP financing. This analysis culminated in the Initial Approved Budget for the $60 million DIP Facility which was shared with the proposed DIP Lenders prior to the commencement of these chapter 11 cases. The Debtors believe that the Initial Approved Budget and its projections provide an accurate reflection of the Debtors' funding requirements over the identified period and are reasonable and appropriate under the circumstances.

23. The proposed DIP Financing is essential for sustaining the Company's global operations and business. The DIP Facility will provide the Debtors with the liquidity necessary to, among other things, make payroll and satisfy their other working capital and general corporate purposes. The DIP Facility will also authorize the Debtors to make payments to certain of the Debtors' prepetition creditors pursuant to the Debtors' "first day" motions thereby allowing these chapter 11 cases to proceed on a prepackaged basis. Allowing these cases to proceed on a fully consensual prepackaged basis will ultimately save the Debtors the costs of administering a longer chapter 11 case which would have otherwise increased the size of the Debtors' proposed DIP Facility. The DIP Facility will further provide assurance to the Debtors' customers, employees, stakeholders and business partners that the Debtors will continue operating "business as usual" and operations will not be disrupted by the commencement of these chapter 11 cases.

24. Absent the authority to enter into and access the DIP Financing, even for a limited period of time, the Debtors' will be unable to continue operating their business, which will cause irreparable harm to the Company and its stakeholders. The Debtors believe it is imperative that the Company sends a clear message to its business partners, employees, and customers that it will be well-capitalized during these chapter 11 cases. Any market perception that the Company will not be able to sustain itself through the bankruptcy process may result in the loss of key employees, parents, and customers and a decline in order intake will exacerbate the Company's ability to successfully restructure and emerge as a going concern.

25. Importantly, the Debtors believe that the funding provided under the DIP Facility will allow the Debtors to pursue a reorganization and confirmation of their proposed prepackaged chapter 11 plan, as reflected in the Restructuring Support Agreement. Furthermore, pursuant to the Restructuring Support Agreement, the DIP Lenders are not requiring repayment of

the DIP Loans but will agree to convert their outstanding DIP Loans on the effective date of the Plan into a first out term loan facility that will not mature until December 2024. Absent authority to enter into and access the DIP Facility, the Debtors will be unable to continue operating their businesses or providing their learning products and services to customers, resulting in a deterioration of value and immediate and irreparable harm to the Debtors' estates. Accordingly, the Debtors' need for the DIP Facility, coupled with both the advantageous terms of the DIP Facility and the attendant benefits of securing a comprehensive restructuring, support the approval of the DIP Financing.

B. Efforts to Obtain DIP Financing

26. In December 2018, the Company engaged Weil, Gotshal & Manges LLP as legal counsel and Houlihan Lokey Capital, Inc. ("**Houlihan**") to explore possible liability management transactions to help right size the Debtors' balance sheet. Thereafter, in December 2019 the Debtors engaged Alix Partners LLP as financial advisor. With the assistance of its professional advisors, the Company engaged with its key stakeholders, including (i) an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; and (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the Ad Hoc First Lien Group that are party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt. Given the importance of the Existing AR Facility to the Company's liquidity, the Company also engaged the AR Lenders under its AR

Facility Agreement to obtain their support with respect to the Company's comprehensive restructuring.

27. In the months leading up to the commencement of these chapter 11 cases, the Debtors took several key steps to maximize their near-term liquidity including, but not limited to (i) entering into forbearance agreements with respect to certain defaults arising under the First Lien Credit Agreement and the Second Lien Credit Agreement, including the failure to make $42 million in interest and amortization payments; (ii) executing *Amendment No. 2* to the AR Facility Agreement to increase advance rates to 95% and allow for incremental financing under the AR Facility Agreements; and (iii) drawing the maximum amount of the Company's First Lien Revolving Loans.

28. Ultimately, despite these steps, in the course of negotiations with the Company's stakeholders, it became evident that a liability management transaction or an out-of-court restructuring would be impossible and that a comprehensive restructuring, mostly likely achieved through a chapter 11 process, would be the best way to preserve and maximize the value of the Debtors' business. The Debtors' ultimate goal was and is a fully consensual restructuring supported by the Consenting Creditors that imposes minimal disruption to the Company's business.

29. Leading up to the Petition Date, as part of the broader restructuring process, the Debtors, with the assistance of their professionals, searched for potential sources of postpetition financing that could provide the Debtors with sufficient liquidity to fund their business operations during the restructuring process.

30. Notably, the vast majority of the Debtors' assets are encumbered by liens granted to the First Lien Lenders and Second Lien Lenders, such that any potential third-party

financing would have to be all or partially unsecured, on a junior basis, "prime" the Debtors' existing secured lenders' prepetition liens, or be secured by the Debtors' limited unencumbered assets. Additionally, the Debtors were informed by their prepetition senior lenders that such lenders would not consent to being primed by third-party DIP Financing, which, (i) given the value of the Debtors' encumbered and unencumbered assets, and (ii) with respect to the Debtors' encumbered assets, the lack of any equity cushion behind the claims of the Prepetition Secured Parties, would have made obtaining third party financing difficult, if not impossible.

31. Given these facts, a third-party DIP loan, even if one were available, would almost certainly have resulted in a long, costly, and likely losing priming fight with the First Lien Lenders. Equally important, any attempt by the Debtors to seek a nonconsensual priming would have undermined the support of the Consenting Creditors for the broader restructuring, as reflected in the Restructuring Support Agreement, and delayed the Debtors' ability to exit from chapter 11, all to the significant detriment of the Debtors' stakeholders.

32. As part of the Debtors global negotiations with the Consenting Creditors in connection with a broader restructuring of the Debtors' balance sheet, the Debtors initiated discussions regarding terms of a potential DIP financing. The Consenting Creditors proposed a term sheet for a DIP financing proposal that was backstopped by certain of the Company's First Lien Lenders (including those in both the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group). Importantly, the term sheet provided for a conversion of the entire DIP Facility amount into a new first-out term loan facility under the proposed chapter 11 plan—accordingly, there was no requirement that the DIP Financing be paid off or refinanced on the effective date of the chapter 11 plan. Even more, the proposal provided for additional financing in the form of $50 million in

new money upon emergence (in addition to the converted DIP Financing) backstopped by certain of the Company's First Lien Lenders.

33. Upon receipt of the term sheet from the Consenting Creditors, the Debtors and their professionals sought to negotiate the best available DIP financing. In advance of the Petition Date, the Debtors and the prospective DIP Lenders, with the assistance of their respective legal and financial advisors, negotiated the terms and provisions of the DIP Facility. The negotiations resulted in concessions made by the prospective DIP Lenders.

34. Despite the challenges associated with obtaining third-party DIP Financing as described above, Houlihan marketed the DIP Financing to determine whether a third party would be willing to provide the Debtors with DIP Financing on better terms than those offered by the First Lien Lenders. Given the First Lien Lender's insistence that they would not consent to a DIP facility that primed their existing security interests, Houlihan focused its marketing efforts on securing a junior DIP. Houlihan substantively engaged with nine (9) financial institutions to solicit offers to provide the Debtors with DIP Financing on a junior lien basis and/or collateralized only by unencumbered collateral. None of the third parties contacted were willing to provide a DIP financing proposal to the Debtors.

35. Negotiations between the Debtors and the proposed DIP Lenders regarding the provision of the DIP Facility were conducted in good faith and on an arm's-length basis. These negotiations were successful and were memorialized in that certain *Term Sheet for DIP and Exit Financing Facilities* attached as Exhibit C to the Restructuring Support Agreement and ultimately set forth in the proposed DIP Credit Agreement.

Basis for Relief Requested

A. The Debtors Should Be Authorized to Obtain Secured, Superpriority DIP Financing

1. Entry into the DIP Facility is an Exercise of the Debtors' Sound Business Judgment

36. Provided that an agreement to obtain secured credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code, courts grant a debtor considerable deference in acting in accordance with its sound business judgment in obtaining such credit. *See, e.g.*, *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility "reflect[ed] sound and prudent business judgement"); *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest."); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of postpetition financing requires, *inter alia*, an exercise of "sound and reasonable business judgment.").

37. In determining whether the Debtors have exercised sound business judgment in selecting DIP financing, a court need only "examine whether a reasonable business person would make a similar decision under similar circumstances." *In re AbitibiBowater Inc.*, 418 B.R. 815, 831 (Bankr. D. Del. 2009). Here, the Debtors' determination to secure DIP financing was a business decision guided by the Debtors' financial and restructuring needs. Specifically, the Debtors together with their advisors, determined that the Debtors will require

immediate liquidity to smoothly transition into chapter 11 and additional liquidity through their restructuring process in order to continue operating "business as usual." Without the additional liquidity, the Debtors would be operating at a suboptimal level of liquidity and unable to preserve nor maximize value, to the detriment of the Debtors' customers, creditors, employees, vendors, and other parties in interest.

38. Bankruptcy courts generally will not second-guess a debtor's business decisions when those decisions involve "a business judgment made in good faith, upon a reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code." *In re Curlew Valley Assocs.*, 14 B.R. 506, 513-14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code"). To determine whether the business judgment test is met, "the court 'is required to examine whether a reasonable business person would make a similar decision under similar circumstances.'" *In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (Bankr. D. Del. Aug. 15, 2007) (citation omitted).

39. The Debtors with the assistance of their advisors, carefully reviewed the proposed DIP Financing and vigorously negotiated the salient terms with the Consenting Creditors and their advisors. Keeping in mind the advantages of the Consenting Creditors' holistic support for the Debtors' restructuring, and the proposed DIP Lenders' willingness to "roll" the DIP Financing to an exit facility, the Debtors ultimately decided that moving forward with the DIP Financing was appropriate and in the Debtors' best interests. Furthermore, given the DIP Financing available to the Debtors, and the Debtors' current liquidity position, any alternative would be detrimental to all stakeholders. Thus, in light of the above, the Debtors and their advisors

determined that the DIP Financing was the best path forward under the totality of circumstances, and the Debtors believe that they have obtained the best financing available

40. The Debtors respectfully submit that the interim relief requested here is necessary to preserve the value of estate assets, and is an exercise of the Debtors' sound and reasonable business judgment.

2. The Debtors Should be Authorized to Obtain Postpetition Financing on a Secured and Superpriority Basis

41. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to obtain secured or superpriority financing under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that:

> If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt:
>
> (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title; [or]
>
> (2) secured by a lien on property of the estate that is not otherwise subject to a lien;
>
> (3) secured by a junior lien on property of the estate that is subject to a lien[.]

11 U.S.C. § 364(c).

42. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Sav. & Loan Ass'n* (*In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986) ("The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable."); *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001)

(superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be able and willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom*., *Anchor Sav. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); *see also Ames Dep't Stores*, 115 B.R. at 40 (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

43. The Debtors believe the proposed DIP Financing is the only available financing at this time. As discussed in the Wilson Declaration and set forth herein, the Debtors, through Houlihan, solicited other potential DIP financing sources but did not receive any proposals. After evaluating the proposed DIP Financing and the lack of any viable alternatives, the Debtors determined that the proposed DIP Lenders' proposal provided more than reasonable economic terms under the totality of the circumstances. Moreover, the proposed DIP Lenders are only willing to extend the DIP Financing on a senior secured, superpriority basis. Accordingly, for the foregoing reasons, the Debtors respectively submit that the Court should authorize the Debtors to provide the DIP Agent and the DIP Lenders superpriority liens and a superpriority administrative expense claim for any obligations arising under the DIP.

3. DIP Facility Provides for Consensual Priming and Cash Collateral Use

44. In addition to authorizing financing under section 364(c) of the Bankruptcy Code, courts may authorize a debtor to obtain postpetition credit secured by a lien that is senior or equal in priority to existing liens on the encumbered property, without the consent of

the existing lien holders, if the debtor cannot otherwise obtain such credit and the interests of existing lien holders are adequately protected. *See* 11 U.S.C. § 364(d)(1). Specifically, section 364(d)(1) of the Bankruptcy Code provides:

> (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:
>
> (A) the trustee is unable to obtain such credit otherwise; and
>
> (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.
>
> (2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

11 U.S.C. § 364(d).

45. When determining whether to authorize a debtor to obtain credit secured by senior liens as authorized by section 364(d) of the Bankruptcy Code, courts focus on whether the transaction will enhance the value of the Debtors' assets. Courts consider a number of factors, including:

- whether the party subject to a priming lien has consented to such treatment;
- whether alternative financing is available on any other basis (*i.e.*, whether any better offers, bids, or timely proposals are before the court);
- whether the proposed financing is necessary to preserve estate assets and is necessary, essential and appropriate for continued operation of the debtors' business;
- whether the terms of the proposed financing are reasonable and adequate given the circumstances of both the debtors and proposed lender(s); and
- whether the proposed financing agreement was negotiated in good faith and at arms' length and entry therein is an exercise of sound and reasonable business judgment and in the best interest of the debtor's estate and its creditors.

See, e.g., *Ames Dep't Stores*, 115 B.R. at 37–39; *Bland v. Farmworker Creditors*, 308 B.R. 109, 113-14 (S.D. Ga. 2003); *Farmland Indus.*, 294 B.R. at 862–79; *In re Lyondell Chem. Co.*, Case No. 09-10023 (Bankr. S.D.N.Y. Mar. 5, 2009); *In re Barbara K. Enters.*, No. 08-11474 (MG), 2008 WL 2439649 at *10 (Bankr. S.D.N.Y. June 16, 2008). The DIP Financing satisfies these factors.

46. First, and most importantly, the priming is consensual. Although the DIP Facility primes the Prepetition Secured Parties' prepetition liens in the Collateral, the requisite First Lien Lenders have affirmatively consented to such priming and are providing the DIP Facility, and over 83% of the Second Lien Lenders have agreed to support the Restructuring (including but not limited to the priming of liens set forth in the proposed DIP Facility) on the terms set forth in the Restructuring Support Agreement and the DIP Documents. Furthermore, to the extent applicable, the Second Lien Lenders are deemed to have consented to the priming of their prepetition liens pursuant to section 6.01 of the Intercreditor Agreement.

47. Second, the Debtors have limited cash on hand and are left with limited options. The commencement of these chapter 11 cases will only increase demands on that liquidity due to, among other things, the costs of administering these chapter 11 cases and the acceleration or elimination of trade terms. Immediate access to the DIP Facility is thus critically necessary to ensure a smooth transition into chapter 11 and enable the Debtors to prudently operate their businesses and, in turn, maximize value for all parties in interest, during the pendency of these chapter 11 cases. To this end, approval of the DIP Facility will enable the Debtors to send precisely that "business as usual" message to their customers, vendors, and business partners.

48. Third, as described in greater detail above and in the Wilson Declaration, the Debtors and the proposed DIP Lenders negotiated the DIP Documents in good faith and at arms' length, and the Debtors' entry into the DIP Documents represents a sound exercise of their

business judgment. Specifically, the contemplated interest rate and other payments related to the DIP Facility as well as the collateral structure and related terms were all negotiated for at arm's length as an integrated package of terms from the proposed DIP Lenders and are in the aggregate generally consistent with the cost and structure of debtor-in-possession financings in comparable circumstances. At this juncture, the Debtors believe the proposed DIP Lenders' proposal is the Debtors' most logical (and only) choice for the Debtors.

4. Prepetition Secured Parties Are Adequately Protected

49. A debtor may obtain postpetition credit "secured by a senior or equal lien on property of the estate that is subject to a lien only if" "the debtor, among other things, provides "adequate protection" to those parties whose liens are primed. *See* 11 U.S.C. § 364(d)(1)(B). What constitutes adequate protection is decided on a case-by-case basis, and adequate protection may be provided in various forms, including payment of adequate protection fees, payment of interest, or granting of replacement liens or administrative claims. *See, e.g.*, *In re Cont'l Airlines Inc.*, 154 B.R. 176, 180-81 (Bankr. D. Del. 1993); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *see also In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) ("[t]he determination of adequate protection is a fact-specific inquiry . . . left to the vagaries of each case").

50. The Debtors and the proposed DIP Lenders propose granting to the Prepetition Secured Parties adequate protection to the extent of any diminution in value in the form of the Adequate Protection Liens, the Adequate Protection Super Priority Claims, and the payment of all reasonable and documented out-of-pocket fees and expenses payable to the Ad Hoc First Lien Group and the Ad Hoc Crossholder Group, whether incurred pre- or post-petition.

51. The Debtors submit that their provision of adequate protection to the Prepetition Secured Parties is fair and reasonable, is sufficient to satisfy the requirements of section 364(d)(1)(B) of the Bankruptcy Code.

52. The Prepetition Secured Parties have consented to the proposed adequate protection. In addition, subject to entry of the Final Order, approving the DIP Facility, the Debtors propose to provide the First Lien Lenders with customary lender protections, including 506(c) and 552(b) waivers and stipulations in respect of the validity of prepetition liens and obligations, among other things

B. Debtors Should be Authorized to Use Postpetition Collateral, Including Cash Collateral

53. Section 363 of the Bankruptcy Code places certain restrictions on a debtor's use of Cash Collateral. Specifically, section 363(c) provides, in pertinent part, that:

> The trustee may not use, sell, or lease cash collateral . . . unless:
>
> (A) each entity that has an interest in such cash collateral consents; or
>
> (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section [363].

11 U.S.C. § 363(c)(2). Further, section 363(e) provides that "on request of an entity that has an interest in property . . . proposed to be used, sold or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e).

54. The Debtors submit that the requirements of sections 363(c)(2) and (e) are met here, and the Debtors should be authorized to use the Cash Collateral. As noted above, the requisite Prepetition Secured Parties have affirmatively consented to the use of Cash Collateral and the Debtors are providing the Prepetition Secured Parties with adequate protection, which (i) is

fair and reasonable and (ii) adequately protects the Prepetition Secured Parties' interests in the Debtors' interests in the Prepetition Collateral. Accordingly, the Court should authorize the Debtors to use the Cash Collateral under section 363(c)(2) of the Bankruptcy Code.

C. DIP Fees Are Reasonable and Should be Approved

55. As described above, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Lenders. Specifically, the DIP Documents contemplate that the Debtors will pay fees and expenses to (i) the DIP Lenders, including a 3% commitment fee and a 2.5% backstop fee, (ii) the DIP Agent, including an annual administrative fee and seasoning fee, and (iii) the DIP Escrow Agent, including an annual administration fee (collectively, the "**DIP Fees**") in exchange for their providing, agenting, and/or arranging the DIP Facility. As described in the Wilson Declaration, the DIP Fees are customary and usual and in line with DIP financing of this kind. The DIP Fees, together with the other provisions of the DIP Documents, represent the most favorable terms to the Debtors on which the DIP Lenders would agree to make the DIP Facility available. The Debtors considered the DIP Fees when determining in their sound business judgment whether the DIP Documents constituted the best terms on which the Debtors could obtain sufficient DIP Financing necessary to continue their operations and prosecute their chapter 11 cases. The Debtors believe paying the DIP Fees in order to obtain such DIP Financing is in the best interests of the Debtors' estates, creditors and other parties in interest. Accordingly, the Court should authorize the Debtors to pay the DIP Fees.

D. DIP Lenders Should be Deemed Good Faith Lenders

56. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the

authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) provides that:

> The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

57. Here, the Debtors believe the DIP Documents embody the most favorable terms on which the Debtors could obtain DIP Financing from the DIP Lenders. All rigorous negotiations regarding the provision of the DIP Facility were conducted in good faith and on an arm's length basis. The terms and conditions of the DIP Facility are fair and reasonable, and the proceeds of the DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code. Further, no consideration is being provided to any party to the DIP Facility other than as disclosed herein. Accordingly, the Court should find that the DIP Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code, and are entitled to all of the protections afforded by that section.

E. Scope of Carve Out Is Appropriate

58. The DIP Liens are subject to the Carve Out. Without the Carve Out, the Debtors and other parties in interest may be deprived of certain rights and powers because the services for which professionals may be paid in these chapter 11 cases would be restricted. *See Ames Dep't Stores, Inc.*, at 38, 40 (observing that courts insist on carve outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve Out does not directly

or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers. Additionally, the Carve Out ensures that assets will be available for the payment of fees of the Clerk of the Bankruptcy Court or the Office of the United States Trustee for the District of Delaware and professional fees of the Debtors and an unsecured creditors committee, if one is appointed. Accordingly, the Carve Out is necessary and appropriate, and should be approved.

F. Automatic Stay Should Be Modified on a Limited Basis

59. The relief requested herein contemplates a modification of the automatic stay to permit the Debtors to grant the DIP Liens. Specifically, the DIP Facility contemplates modifying the automatic stay so as to (i) permit the creation and perfection of the DIP Liens entry into the DIP Documents and (ii) provide for the automatic vacation of such stay to permit the DIP Agent to enforce its rights with respect to the DIP Collateral in the event of an Event of Default under the DIP Facility, subject to five (5) business day's remedies notice period.

60. Stay modifications of this kind are ordinary and standard features for DIP Financings, and in the Debtors' business judgment, are reasonable and fair under the present circumstances. *See, e.g.*, *In re The NORDAM Grp., Inc.*, Case No. 18-11699 (MFW) (Bankr. D. Del. July 25, 2018) (ECF No. 85); *In re Claire's Stores, Inc.*, Case No. 18-10584 (MFW) (Bankr. D. Del. Mar. 20, 2018) (ECF No. 130); *In re Golfsmith Int'l Holdings, Inc.*, Case No. 16-12033 (LSS) (Bankr. D. Del. Sep. 16, 2016) (ECF No. 89); *In re Am. Apparel, Inc.*, Case No. 15-12055 (BLS) (Bankr. D. Del. Oct. 6, 2015) (ECF No. 80); *In re Sears Holdings Corp.*, Case No. 18-23538 (RDD) (Bankr. S.D.N.Y Oct. 16, 2018) (ECF No. 101); *In re Westinghouse Elec. Co.*, Case No. 17-10751 (MEW) (Bankr. S.D.N.Y May 26, 2017) (ECF No. 86); *In re Breitburn Energy*

Partners LP, Case No. 16-11390 (SMB) (Bankr. S.D.N.Y. July 19, 2016) (ECF No. 278); *In re Aeropostale, Inc.*, Case No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016) (ECF No. 99).

Immediate Relief Is Required to Avoid Immediate and Irreparable Harm

61. The Court may grant interim relief in respect of a motion filed pursuant to section 363(c) or 364 of the Bankruptcy Code where, as here, interim relief is "necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(b)(2), (c)(2); 6003(b). The Debtors and their estates will suffer immediate and irreparable harm if the interim relief requested herein, including authorizing the Debtors to use the Cash Collateral and to incur the interim borrowings under the DIP Documents, is not granted promptly after the Petition Date.

62. The Debtors have minimal cash on hand as of the Petition Date and the Debtors anticipate that the commencement of these chapter 11 cases will significantly and immediately increase the demands on their liquidity as a result of, among other things, the costs of administering these chapter 11 cases, implementing critical restructuring initiatives, and addressing key constituents' concerns regarding the Debtors' financial health and ability to continue operations in light of these chapter 11 cases. Accordingly, the Debtors have an immediate need for access to liquidity to, among other things, continue the operation of their business, maintain important relationships with customers, meet payroll, procure goods and services from vendors and suppliers, and otherwise satisfy their working capital and operational needs, all of which are required to preserve and maintain the Debtors' going concern value for the benefit of all parties in interest. For all of the reasons set forth above, prompt entry of the Interim Order is necessary to avert immediate and irreparable harm to the Debtors' estates and is consistent with, and warranted under, Bankruptcy Rules 4001(b)(2) and (c)(2).

Request for Final Hearing

63. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date, which is no later than twenty-five (25) days after the entry of the Interim Order, to hold a hearing to consider entry of the Final Order and approval of the relief requested in this Motion on a final basis.

64. The Debtors also request authority to serve a copy of the signed Interim Order, which fixes the time and date for the filing of objections, if any, to entry of the Final Order, by first class mail upon the notice parties listed below, and further request that the Court deem service thereof sufficient notice of the hearing on the Final Order under Bankruptcy Rule 4001(c)(2).

Notice

65. Notice of this Motion will be provided to (i) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)); (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to WSFS, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as DIP Agent and DIP Escrow Agent, Seward & Kissel LLP, One Battery Park

Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) the Securities and Exchange Commission; (xi) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xii) the counsel to the DIP Lenders (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 15, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
SKILLSOFT CORPORATION, *et al.*[1]	)	Case No. 20-[____] (___)
	)	(Joint Administration Requested)
Debtors.	)	
	)	**Re: Docket No. _____**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (IV) MODIFYING AUTOMATIC STAY, (V) SCHEDULING FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") in the above captioned chapter 11 cases (collectively, the "**Cases**") for entry of an interim order (this "**Interim Order**"), pursuant to sections 105, 361, 362, 363, 364, 507, and 552 of title 11 of the United States Code (as amended, the "**Bankruptcy Code**"), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rules 2002-1(b), 4001-2, 9006-1, and 9013 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), seeking entry of this interim order (this "**Interim Order**") and:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion or the DIP Credit Agreement (defined below), as applicable.

(i) authorizing Skillsoft Corporation, in its capacity as borrower (the "**Borrower**"), to obtain postpetition financing consisting of a senior secured super-priority term loan credit facility in the aggregate amount of $60,000,000 (such facility, the "**DIP Facility**" and the loans thereunder, the "**DIP Loans**") and authorizing each of the other Debtors (the "**Guarantors**") to guarantee unconditionally, on a joint and several basis, the Borrower's obligation in connection with the DIP Facility, each in accordance with the terms and conditions set forth in the DIP Credit Agreement (defined below) and the terms and conditions set forth in the DIP Documents (defined below), upon entry of the Interim Order and subject to the terms of the Final Order (as defined in the DIP Credit Agreement);

(ii) authorizing the Debtors to enter into that certain Senior Secured Super-Priority Debtor-In-Possession Credit Agreement dated as of June [__], 2020 and substantially in the form attached hereto as **Exhibit 2**, among Pointwell Limited, a corporation organized under the laws of Ireland, as parent, the Borrower, the Lenders party thereto (in such capacity, collectively, the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as Administrative Agent (in such capacity, the "**DIP Administrative Agent**"), Collateral Agent (in such capacity, the "**DIP Collateral Agent**" and, together with the DIP Administrative Agent, the "**DIP Agent**"), and Escrow Agent (in such capacity, the "**DIP Escrow Agent**" and, together with the DIP Administrative Agent, the DIP Collateral Agent and the DIP Lenders, the "**DIP Secured Parties**") (as the same may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**" and, together with the schedules and exhibits attached thereto, this Interim Order, the Final Order, and all agreements, documents, and instruments delivered or executed in connection therewith (including the Fee Letter (as defined in the DIP Credit Agreement) executed by the Borrower in connection with the

DIP Facility, and other guarantee and security documentation, collectively, the "**DIP Documents**"), and to perform such other and further acts as may be required in connection with the DIP Documents;

(iii) authorizing the Debtors to use the DIP Loans, the proceeds thereof, and the Prepetition Collateral (defined below), including Cash Collateral (defined below), in accordance with the Initial Approved Budget (as defined in the DIP Credit Agreement and attached hereto as **Exhibit 1**) (subject to the permitted variances set forth in the DIP Credit Agreement), and subsequently Approved Budgets, to provide working capital for, and for the other general corporate purposes of, the Debtors, including chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, Adequate Protection Payments (defined below), and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented through the Cases in accordance with the RSA (as defined in the DIP Credit Agreement);

(iv) granting adequate protection to the Prepetition Secured Parties (defined below) to the extent of any Diminution in Value (defined below) of their interests in the Prepetition Collateral;

(v) granting to the DIP Agent, for the benefit of the DIP Secured Parties to secure the DIP Obligations (defined below), valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on, and senior security interests in, all of the DIP Collateral (defined below), subject only to (x) the Carve Out (defined below) and (y) other valid, perfected and unavoidable liens (other than the Prepetition Liens (defined below)) that are senior to the Prepetition Liens, if any, existing as of the Petition Date (or perfected after the Petition Date to the

extent permitted by section 546(b) of the Bankruptcy Code) on the terms and conditions set forth herein and in the DIP Documents (any such liens, the "**Existing Senior Liens**");[3]

(vi) granting superpriority administrative expense claims against each of the Debtors' estates to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders with respect to the DIP Obligations (defined below) with priority over any and all administrative expenses of any kind or nature and subject and subordinate only to the payment of the Carve Out on the terms and conditions set forth herein and in the DIP Documents;

(vii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, waiving certain of the Debtors' and the Debtors' estates' right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code;

(viii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, providing that the "equities of the case" exception under section 552(b) of the Bankruptcy Code not apply to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable;

(ix) pursuant to Bankruptcy Rule 4001, holding an interim hearing (the "**Interim Hearing**") on the Motion before this Court to consider entry of this Interim Order to, among other things, (1) authorize the Borrower to, on an interim basis, borrow from the DIP Lenders a principal amount of $60,000,000 in DIP Loans, (2) authorize the Guarantors to guaranty the DIP Obligations, (3) authorize the Debtors' use of Prepetition Collateral (including Cash Collateral), (4) grant the adequate protection described in this Interim Order, and (5) authorize the

[3] Nothing in this Interim Order shall constitute a finding or ruling by this Court that any such prepetition liens are valid, senior, perfected, and/or unavoidable. Moreover, nothing in this Interim Order shall prejudice the rights of any party in interest including, but not limited to, the Debtors, the DIP Secured Parties, and/or the Committee to challenge the validity, priority, perfection and extent of any such prepetition liens.

Debtors to execute and deliver the DIP Documents to which they are a party and to perform their respective obligations thereunder and such other and further acts as may be necessary or appropriate in connection therewith;

(x) scheduling a final hearing (the "**Final Hearing**") within twenty-five (25) days of the Petition Date to consider the relief requested in the Motion and the entry of the Final Order;

(xi) approving the form of notice with respect to the Final Hearing; and

(xii) granting related relief.

This Court having considered the Motion, the exhibits thereto, the *Declaration of John Frederick in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), the *Declaration of Christopher A. Wilson in Support of the Debtors' Motion for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Wilson Declaration**"), and the other evidence submitted or adduced and the arguments of counsel made at the Interim Hearing held pursuant to Bankruptcy Rule 4001(b)(2) on June [__], 2020; and this Court having heard and resolved or overruled on the merits any objections, reservations of rights, or other statements with respect to the relief requested in the Motion; and this Court having noted the appearances of parties in interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and the Debtors having provided notice of the Motion as set forth in the Motion, and it appearing that

no other or further notice of the Motion need be given; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[4]

A. *Petition Date*. On June 14, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware commencing these Cases.

B. *Debtors in Possession*. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

C. *Jurisdiction and Venue*. The Court has jurisdiction over the Motion, these Cases, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Venue for these Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Court may enter a final order consistent with Article III of the United States Constitution.

D. *Committee*. As of the date hereof, no official committee of unsecured creditors has been appointed in these Cases pursuant to section 1102 of the Bankruptcy Code (any such committee, the "**Committee**").

[4] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law, pursuant to Bankruptcy Rules 7052 and 9014.

E. *Debtors' Stipulations*. Without prejudice to the rights of parties in interest with standing other than the Debtors, but subject to the limitations thereon contained in Paragraphs 12 and 26 of this Interim Order, the Debtors represent, admit, stipulate, and agree (subsections (i) through (v) below, collectively, the "**Debtors' Stipulations**") that:

(i) *Prepetition Indebtedness*.

(a) The Prepetition First Lien Lenders (defined below), under that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Credit Agreement**" and, together with the "Credit Documents" (as defined in the Prepetition First Lien Credit Agreement), the "**Prepetition First Lien Credit Documents**"; the term loans issued under the Prepetition First Lien Credit Agreement, the "**Prepetition First Lien Term Loans**"; the revolving loans issued thereunder, the "**Prepetition First Lien Revolving Loans**" and, together with the Prepetition First Lien Term Loans, the "**Prepetition First Lien Debt**"), by and among among Evergreen Skills Intermediate Lux S.à r.l. ("**Holdings**"), Evergreen Skills Lux S.à r.l. (the "**Lux Borrower**"), the Borrower, Skillsoft Canada, Ltd. (the "**Canadian Borrower**"; the Lux Borrower, the Borrower, and the Canadian Borrower collectively, the "**First Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition First Lien Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (the "**Prepetition First Lien Administrative Agent**") and collateral agent (the "**Prepetition First Lien Collateral Agent**" and, together with the Prepetition First Lien Administrative Agent, the "**Prepetition First Lien Agent**"; the Prepetition First Lien Agent together with the Prepetition First Lien Lenders, the "**Prepetition First Lien Secured Parties**"), and the other parties thereto from time to time, provided the First Lien Borrowers with Prepetition First Lien Term Loans in the aggregate

principal amount of $900,000,000 and commitments for Prepetition First Lien Revolving Loans in the aggregate principal amount of $100,000,000.

(b) The Prepetition Second Lien Lenders (defined below), under that certain Second Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Credit Agreement**" and, together with the Prepetition First Lien Credit Agreement, the "**Prepetition Credit Agreements**"; the "**Credit Documents**" (as defined in the Prepetition Second Lien Credit Agreement), the "**Prepetition Second Lien Credit Documents**" and, together with the Prepetition First Lien Credit Documents, the "**Prepetition Credit Documents**"; the term loans issued under the Prepetition Second Lien Credit Agreement, the "**Prepetition Second Lien Term Loans**" and, together with the Prepetition First Lien Debt, the "**Prepetition Indebtedness**"), by and among among Holdings, Evergreen Skills Lux S.à r.l., the Lux Borrower, the Borrower (the Lux Borrower together with the Borrower, the "**Second Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition Second Lien Lenders**" and, together with the Prepetition First Lien Lenders, the "**Prepetition Secured Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (in such capacity, the "**Prepetition Second Lien Administrative Agent**") and collateral agent (in such capacity, the "**Prepetition Second Lien Collateral Agent**" and, together with the Prepetition Second Lien Administrative Agent, the "**Prepetition Second Lien Agent**"; the Prepetition Second Lien Agent together with the Prepetition First Lien Agent, the "**Prepetition Agents**"; the Prepetition Agents together with the DIP Agent and the DIP Escrow Agent, the "**Agents**"); the Prepetition Second Lien Agent together with the Prepetition Second Lien Lenders, the "**Prepetition Second Lien Secured Parties**"; the Prepetition Second Lien Secured Parties together with the Prepetition First Lien Secured Parties,

the "**Prepetition Secured Parties**"), and the other parties thereto from time to time, provided the Second Lien Borrowers with Prepetition Second Lien Term Loans in the aggregate principal amount of $485,000,000.

(c) On September 30, 2014, pursuant to the terms of that certain Amended and Restated First Lien Joinder Agreement and an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers obtained $465,000,000 in New Term Loans (as defined in the Prepetition First Lien Credit Agreement).

(d) On September 30, 2014, pursuant to the terms of that certain Amended and Restated Second Lien Joinder Agreement and an amendment to the Prepetition Second Lien Credit Agreement, the Second Lien Borrowers obtained $185,000,000 in New Term Loans (as defined in the Prepetition Second Lien Credit Agreement).

(e) On August 24, 2018, pursuant to an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers reduced the aggregate Revolving Credit Commitments of all Revolving Credit Lenders (each as defined in the Prepetition First Lien Credit Agreement) from $100,000,000 to $90,000,000.

(f) On or about March 27, 2019 the Company (i) prepaid $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Loans and (ii) terminated $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Commitments (each as defined in the Prepetition First Lien Credit Agreement) thereby reducing the First Lien Borrowers' obligations pursuant to the Prepetition First Lien Credit Agreement from $90,000,000 to $80,000,000.

(g) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition First Lien Secured

Parties pursuant to the Prepetition First Lien Credit Documents, for Prepetition First Lien Term Loans in the aggregate principal amount of approximately $1,290,000,000 and Prepetition First Lien Revolving Loans in the aggregate principal amount of approximately $79,500,000, *plus*, with respect to each, accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition First Lien Credit Agreement) owing under the Prepetition First Lien Credit Documents (collectively, the "**Prepetition First Lien Obligations**").

(h) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition Second Lien Secured Parties pursuant to the Prepetition Second Lien Credit Documents, for Prepetition Second Lien Term Loans in the aggregate principal amount of approximately $670,000,000 *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition Second Lien Credit Agreement) owing under the Prepetition Second Lien Credit Documents (collectively, the "**Prepetition Second Lien Obligations**" and, together with the Prepetition First Lien Obligations, the "**Prepetition Obligations**").

(ii) *Prepetition Indebtedness Collateral*.

(a) In connection with the Prepetition First Lien Credit Agreement, the Debtors entered into that certain First Lien Security Agreement, dated as of April 28, 2014 (as

amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Security Agreement**"), by and between the First Lien Borrowers, the other Credit Parties (as defined in the Prepetition First Lien Credit Agreement) party thereto, and the Prepetition First Lien Collateral Agent. Pursuant to the Prepetition First Lien Security Agreement and the other Prepetition First Lien Credit Documents, the Prepetition First Lien Obligations are secured by valid, binding, perfected first-priority security interests in and liens (the "**Prepetition First Lien Revolving and Term Loan Liens**") on the "Collateral" (the "**Prepetition Collateral**"), as defined in the Prepetition First Lien Security Agreement, consisting of substantially all of the Debtors' assets, except as may be set forth in the Prepetition First Lien Security Agreement.

(b) In connection with the Prepetition Second Lien Credit Agreement, the Debtors entered into that certain Second Lien Security Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Security Agreement**" and, together with the Prepetition First Lien Security Agreement, the "**Prepetition Security Agreements**"), by and between the Second Lien Borrowers, the other Credit Parties (as defined in the Prepetition Second Lien Credit Agreement) party thereto, and the Prepetition Second Lien Collateral Agent. Pursuant to the Prepetition Second Lien Security Agreement and the other Prepetition Second Lien Credit Documents, the Prepetition Second Lien Obligations are secured by valid, binding, perfected second-priority security interests in and liens (the "**Prepetition Second Lien Term Loan Liens**" and, together with the Prepetition First Lien Revolving and Term Loan Liens, the "**Prepetition Liens**") on the Prepetition Collateral.

(iii) *Cash Collateral*. Any and all of the Debtors' cash, including (i) amounts on deposit or maintained in any account or accounts by the Debtors, (ii) any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral existing as of the Petition Date, and (iii) the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of Bankruptcy Code section 363(a) (the "**Cash Collateral**").

(iv) *Bank Accounts*. The Debtors acknowledge and agree that as of the Petition Date, none of the Debtors has either opened or maintains any bank accounts other than the accounts listed in the exhibit attached to any order authorizing the Debtors to continue to use the Debtors' existing cash management system (the "**Cash Management Order**").

(v) *Validity, Perfection, and Priority of Prepetition Liens and Prepetition Obligations*. Subject to the Challenge Period (defined below), each of the Debtors acknowledges and agrees that: (A) as of the Petition Date, the Prepetition Liens are valid, binding, enforceable, non-avoidable, and properly perfected liens on and security interests in the Prepetition Collateral; (B) as of the Petition Date, the Prepetition Liens are subject and/or subordinate only to valid, perfected, and unavoidable liens and security interests existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; (C) the Prepetition Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors; (D) no offsets, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Obligations exist, and no portion of the Prepetition Liens or Prepetition Obligations is subject to any challenge or defense including impairment, set-off, right of recoupment, avoidance, attachment, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (whether equitable or otherwise), attack, offset, defense, counterclaims, cross-claims, or "claim" (as defined in the

Bankruptcy Code), pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (E) the Debtors and their estates have no claims, objections, challenges, causes of actions, recoupments, counterclaims, cross-claims, setoff rights, and/or choses in action, including "lender liability" causes of action or avoidance claims under chapter 5 of the Bankruptcy Code, whether arising under applicable state law or federal law (including any recharacterization, subordination, avoidance, disgorgement, recovery, or other claims arising under or pursuant to sections 105, 510, or 542 through 553 of the Bankruptcy Code), against the Prepetition Agents, the Prepetition Secured Parties, or any of their respective affiliates, agents, representatives, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon, or related to the Prepetition Indebtedness under the Prepetition Credit Documents, the Prepetition Obligations, or the Prepetition Liens; provided, however, that notwithstanding anything to the contrary in this Interim Order, the Debtors do not agree or acknowledge that the Prepetition Liens are perfected on cash in any accounts with institutions that are not the Prepetition Agents or Prepetition Secured Parties.

F. *Findings Regarding the DIP Facility and Use of Cash Collateral*.

(i) The Debtors have an immediate need to obtain the funds available under the DIP Facility and to use Cash Collateral (solely to the extent consistent with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents)) to, among other things, (A) permit the orderly continuation of their businesses; (B) make certain Adequate Protection Payments; and (C) pay the costs of administration of their estates and satisfy their other working capital and general corporate purposes during the pendency of these Cases. Specifically, the proceeds of the DIP Loans will provide the Debtors with the ability to fund day-to-day operations and meet administrative obligations during the Cases. The DIP Facility will

also reassure the Debtors' customers and employees that the Debtors will have access to additional liquidity to meet their commitments during the Cases and that the Debtors' businesses will continue as a going concern post-emergence. The ability of the Debtors to obtain sufficient working capital and liquidity through the incurrence of the new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the Debtors' going concern value and successful reorganization. The Debtors will not have sufficient sources of working capital and financing to operate their businesses in the ordinary course of business throughout the Cases without access to the DIP Facility and authorized use of Cash Collateral.

(ii) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code for the purposes set forth in the DIP Documents without the Debtors granting to the DIP Secured Parties, subject to the Carve Out as provided for herein, the DIP Liens (defined below) and the DIP Superpriority Claims (defined below) under the terms and conditions set forth in this Interim Order and the DIP Documents.

(iii) The DIP Facility has been negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties, and all of the Debtors' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Documents including, without limitation, all loans made to and guarantees issued by the Debtors pursuant to the DIP Documents and all other obligations under the DIP Documents (collectively, the "**DIP Obligations**") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon

the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and the DIP Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, and any liens or claims granted to, or payments made to, the DIP Agent, the DIP Escrow Agent, or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(iv) *Sections 506(c) and 552(b)*. In light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, the Prepetition Secured Parties are entitled to the rights and benefits of section 552(b) of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, (i) a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code and (ii) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(v) *Consent by Prepetition Agents*. The Prepetition First Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition First Lien Credit Agreement (the "**Required Prepetition First Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition First Lien Secured Parties, and the Prepetition Second Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition Second Lien Credit Agreement (the "**Required Prepetition Second Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition Second Lien Secured Parties, have consented to, conditioned on the entry of this Interim Order, the Debtors' incurrence of the DIP Facility and proposed use of Cash Collateral on the terms and

conditions set forth in this Interim Order and the terms of the adequate protection provided for in this Interim Order, including that the Adequate Protection Liens and Adequate Protection Superpriority Claims are subject and subordinate to the Carve Out.

G. *Good Cause Shown; Best Interest*. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing business and enhance the Debtors' prospects for a successful reorganization. Absent granting the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed.

H. *Notice*. In accordance with Bankruptcy Rules 2002, 4001(b) and (c), and 9014, and the Local Rules, notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors. Under the circumstances, the notice given by the Debtors of the Motion, the relief requested herein, and of the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b) and (c), and 9014 and applicable Local Rules.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. DIP Financing Approved. The Motion is granted on an interim basis as set forth herein, and the use of Cash Collateral on an interim basis is authorized, subject to the terms of this Interim Order.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of the Interim Order, to the extent not withdrawn or resolved, are overruled on the merits. This Interim Order shall become effective immediately upon its entry.

3. Authorization of the DIP Facility and the DIP Documents.

(a) The Debtors are hereby immediately authorized and empowered to enter into, and to execute and deliver, the DIP Documents, and such additional documents, instruments, certificates and agreements as may be reasonably required or requested by the DIP Secured Parties to implement the terms or effectuate the purposes of this Interim Order and the DIP Documents. To the extent not entered into as of the date hereof, the Debtors and the DIP Secured Parties shall negotiate the DIP Documents in good faith, and in all respects such DIP Documents shall be consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent, the DIP Escrow Agent, and the Required Lenders (as defined in the DIP Credit Agreement, the "**Required DIP Lenders**"). Upon entry of this Interim Order and until execution and delivery of the DIP Credit Agreement and the other DIP Documents, the Debtors and the DIP Secured Parties shall be bound by (x) the terms and conditions and other provisions set forth in the executed DIP Documents, and (y) this Interim Order, which shall govern and control the DIP Facility. Upon entry of this Interim Order, the Interim Order, the DIP Credit Agreement, and other DIP Documents shall govern and control the DIP Facility. The DIP Agent and the DIP Escrow Agent are hereby authorized to execute and enter into its respective obligations under the DIP Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Documents shall constitute valid and binding obligations of the Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the Motion, the DIP Documents, and this Interim Order, the terms and conditions of this Interim Order shall govern and control. To the extent there is a conflict between the terms and conditions of the Motion and the DIP Documents, the terms and conditions of the DIP Documents shall govern.

(b) Upon entry of this Interim Order, the Borrower is hereby authorized to borrow, and the Guarantors are hereby authorized to guaranty, borrowings up to an aggregate principal amount of $60,000,000 in DIP Loans, subject to and in accordance with the terms of this Interim Order and the DIP Documents.

(c) The proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Documents and this Interim Order, and in accordance with the Approved Budget, subject to permitted variances as set forth in this Interim Order and the DIP Documents. Attached as **Exhibit 1** hereto and incorporated herein by reference is the Initial Approved Budget prepared by the Debtors and approved by the Required DIP Lenders in accordance with Section 9.18 of the DIP Credit Agreement.

(d) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Documents including, without limitation:

(1) the execution, delivery, and performance of the DIP Documents, including, without limitation, the DIP Credit Agreement, any guaranty, security and pledge agreement, and any mortgage to the extent contemplated thereby;

(2) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Documents (in each case in accordance with the terms of the applicable DIP Documents and in such form as the Debtors, the DIP Agent, the DIP Escrow Agent (if applicable), and the Required DIP Lenders may

agree), it being understood that (i) no further approval of the Court shall be required for amendments, waivers, consents, or other modifications to and under the DIP Documents or the DIP Obligations that do not shorten the maturity of the extensions of credit thereunder or modify the commitments or the rate of interest or other amounts payable thereunder and (ii) any such amendments, waivers, consents or modifications to the DIP Documents shall be provided to the U.S. Trustee and the Committee (if any);

(3) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees and expenses referred to in the DIP Documents, including (x) all fees and other amounts owed to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders and (y) all reasonable and documented costs and expenses as may be due from time to time, including, without limitation, the reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Documents (whether incurred before or after the Petition Date, including, for the avoidance of doubt, (a) the Specified Lender Advisors; (b) the Crossholder Lender Advisors; and (c) the Agent Advisors (each, as defined in the DIP Credit Agreement), and, solely to the extent necessary to exercise its rights and fulfill its obligations under the DIP Documents, one counsel to the DIP Agent in each local jurisdiction, which such fees and expenses shall not be subject to the approval of the Court, nor shall any recipient of any such payment be required to file with respect thereto any interim or final fee application with the Court provided that any fees and expenses of a professional shall be subject to the provisions of Paragraph 18 of this Interim Order; and

(4) the performance of all other acts required under or in connection with the DIP Documents.

(e) Upon entry of this Interim Order, the DIP Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Debtors enforceable against each Debtor party thereto in accordance with their respective terms and the terms of this Interim Order for all purposes during the Cases, any subsequently converted Case of any Debtor to a case under chapter 7 of the Bankruptcy Code or after the dismissal of any Case. No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Documents, or this Interim Order shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (a) to or on behalf of the DIP Agent or the DIP Escrow Agent on behalf of any DIP Secured Parties or (b) to or on behalf of the Prepetition Secured Parties, in each case pursuant to the DIP Documents, the provisions of this Interim Order, or any subsequent order of this Court, shall be received free and clear of any claim, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code (and, solely in the case of waivers of rights under sections 506(c) and 552(b) of the Bankruptcy Code, subject to the entry of the Final Order approving such waivers).

(f) The Guarantors are hereby authorized and directed to jointly, severally, and unconditionally guarantee, and upon entry of this Interim Order shall be deemed to have guaranteed, in full, all of the DIP Obligations.

4. Budget and Variance Reporting. The Initial Approved Budget is attached hereto as **Exhibit 1** and each updated, modified, or supplemented budget shall be in form and substance satisfactory to the Required DIP Lenders (it being acknowledged and agreed that the Initial Approved Budget attached to this Interim Order is approved by and satisfactory to the Required DIP Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of the DIP Credit Agreement, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required DIP Lenders may be communicated via an email from either of the Specified Lender Advisors). The Approved Budget shall be updated, modified or supplemented by the Debtors from time to time in writing transmitted to the DIP Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required DIP Lenders (with a copy of such written consent or request concurrently delivered to the DIP Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week following entry of this Interim Order, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required DIP Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required DIP Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required DIP Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required DIP Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period covered by the prior approved Approved Budget has terminated (and at all times thereafter

such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required DIP Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Commencing on July 16, 2020, on or before 5:00 p.m. (Eastern Standard Time) on the Thursday of every other week, the Borrower shall deliver to the DIP Agent and the Specified Lender Advisors (for distribution to the DIP Lenders) an Approved Budget Variance Report (as defined in the DIP Credit Agreement), which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period (as defined in the DIP Credit Agreement), be in a form satisfactory to the Required DIP Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors) and include all materials required by, and be otherwise consistent with, Section 9.18(c) of the DIP Credit Agreement.

5. Access to Records. Upon request, the Debtors shall provide the Specified Lender Advisors and the Crossholder Lender Advisors with all reporting and other information required to be provided to the DIP Agent under the DIP Documents, subject to the same limitations set forth therein. In addition to, and without limiting whatever rights to access the DIP Secured Parties have under the DIP Documents, upon reasonable notice to Debtors' counsel (e-mail being sufficient), at reasonable times and during normal business hours, the Debtors shall permit representatives, agents, and employees of the DIP Secured Parties to have access to (i) inspect the Debtors' assets, and (ii) all information (including historical information and the Debtors' books and records) and personnel, including regularly scheduled meetings as mutually agreed with the senior management of the Debtors and other company advisors (during normal business hours), and provide the DIP Secured Parties with access to all information they shall reasonably request, excluding any information for which confidentiality is owed to third parties, information subject

to attorney client or similar privilege, or where such disclosure would not be permitted by any applicable law, in each case as set forth in the DIP Documents.

6. DIP Superpriority Claims. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against each of the Debtors' estates (the "**DIP Superpriority Claims**") (without the need to file any proof of claim) with priority over any and all administrative expenses, adequate protection claims, diminution claims (if any), and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise, which allowed claims shall for the purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code and which shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof, including, without limitation, subject to authorization in the Final Order, any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code (such claims and causes of action, the "**Avoidance Actions**" and, the proceeds thereof and the property recovered with respect thereto, collectively, the "**Avoidance Proceeds**"), if any, subject only to, and subordinated in all respects to, the payment of the Carve Out.

7. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the

Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements, or the possession or control by the DIP Agent, the DIP Escrow Agent, or any DIP Lender of, or over, any DIP Collateral, the following security interests and liens are hereby granted by the Debtors to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause (a) and (b) below being collectively referred to as the "**DIP Collateral**"), subject only to (x) the Carve Out and (y) the Existing Senior Liens (all such liens and security interests granted to the DIP Collateral Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**"):

(a) First Priority Lien On Any Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) (collectively, the "**Previously Unencumbered Property**") (subject to the Carve Out), including, without limitation (in each case, to the extent not subject to valid, perfected, and non-avoidable liens), an equity pledge of any first-tier foreign subsidiaries of the Debtors, unencumbered cash constituting property of the Debtors (whether maintained with the DIP Agent, the DIP Escrow Agent, or otherwise) and any investment of such cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, accounts receivable, receivables and receivables records, general intangibles, payment intangibles,

tax or other refunds, insurance proceeds, letters of credit, contracts, owned real estate, real property leaseholds, fixtures, deposit accounts, commercial tort claims, securities accounts, instruments, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, real property, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each Debtor, other equity or ownership interests (including equity interests in subsidiaries of each Debtor), money, investment property, intercompany claims, claims arising on account of transfers of value from a Debtor to (x) another Debtor and (y) a non-Debtor affiliate incurred on or following the Petition Date, causes of action, including causes of action arising under section 549 of the Bankruptcy Code (but excluding all other Avoidance Actions), all products and proceeds of the foregoing and, subject to entry of the Final Order granting such relief, the Avoidance Proceeds; provided that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(b) Liens Priming the Prepetition Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all property of the Debtors that was subject to the Prepetition Liens (subject to the Carve Out) including, without limitation, the Prepetition Collateral and Cash Collateral; provided that such liens shall be immediately junior to any valid, perfected, and unavoidable liens, if any, existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; provided,

further, that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(c) Validity, Enforceability. The DIP Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, "**Successor Cases**"). Except as expressly provided herein with respect to the Carve Out and Existing Senior Liens, if any, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the DIP Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The DIP Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, the DIP Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the DIP Liens shall be deemed legal, valid, binding, enforceable, and perfected first-priority liens (subject only to the Carve Out and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

8. Adequate Protection for the Prepetition Secured Parties. Subject only to the Carve Out and the terms of this Interim Order, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, as adequate protection of their interests in the Prepetition Collateral (including Cash Collateral), solely for and equal in amount to the aggregate postpetition diminution in value of such interests (if any) (each such diminution, a "**Diminution in Value**"), resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, subordination to the Carve Out, the Debtors' use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Agents, for the benefit of themselves and the other Prepetition Secured Parties, are hereby granted the following (collectively, the "**Adequate Protection Obligations**"):

(a) Adequate Protection Liens.

(1) First Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition First Lien Secured Parties in the Prepetition Collateral, to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition First Lien Collateral Agent, for the benefit of itself and each of the Prepetition First Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, effective and automatically perfected postpetition security interests in and liens

(together, the "**First Lien Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the First Lien Adequate Protection Liens shall be subordinate only to (A) the Carve Out, (B) the DIP Liens, and (C) Existing Senior Liens, if any. The First Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The First Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, and the Existing Senior Liens, if any, the First Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the First Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The First Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the First Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the First Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected second-priority liens (subject only to the Carve Out, the DIP Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(2) Second Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition Second Lien Secured Parties in the Prepetition Collateral to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition Second Lien Collateral Agent, for the benefit of itself and each of the Prepetition Second Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, and effective and automatically perfected postpetition security interests in and liens (together, the "**Second Lien Adequate Protection Liens**" and, together with the First Lien Adequate Protection Liens, the "**Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the Second Lien Adequate Protection Liens shall be subordinate only to the (A) Carve Out, (B) the DIP Liens, (C) the First Lien Adequate Protection Liens, (D) the Prepetition First Lien Revolving and Term Loan Liens, and (E) Existing Senior Liens, if any. The Second Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The Second Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or

any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any, the Second Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the Second Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The Second Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the Second Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the Second Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected third-priority liens (subject only to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(b) Adequate Protection Superpriority Claims.

(1) First Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition First Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (if any) (the "**First Lien Adequate Protection Superpriority Claims**"), but junior to the Carve Out and the DIP Superpriority Claims. Subject

to the Carve Out and the DIP Superpriority Claims in all respects, the First Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code and the Second Lien Adequate Protection Claims. The Prepetition First Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the First Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders, in each case as provided in the DIP Documents.

(2) Second Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition Second Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (the "**Second Lien Adequate Protection Superpriority Claims**" and, together with the First Lien Adequate Protection Superpriority Claims, the "**Adequate Protection Superpriority Claims**"), but junior to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims. Subject to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims in all respects, the Second Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the

Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code. The Prepetition Second Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the Second Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations and the First Lien Adequate Protection Superpriority Claims have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders and the Prepetition First Lien Secured Parties, in each case as provided in the DIP Documents.

(c) Adequate Protection Payments. As further adequate protection, the Debtors are authorized and directed to pay, in accordance with the terms of Paragraph 18 of this Interim Order, all reasonable and documented out-of-pocket fees and expenses (the "**Adequate Protection Fees**"), whether incurred before or after the Petition Date, including all reasonable and documented out-of-pocket fees and expenses of the Prepetition Agents and for the counsel and other professionals retained as provided for in the DIP Documents and this Interim Order, including, for the avoidance of doubt, of (A) the Specified Lender Advisors, (B) the Crossholder Lender Advisors, (C) the Agent Advisors, and (D) solely to the extent necessary to exercise and fulfill their obligations under the Prepetition Credit Documents, one counsel to the Prepetition Agents in each local jurisdiction (all payments referenced in this sentence, collectively, the "**Adequate Protection Payments**"). None of the Adequate Protection Fees shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall

be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(d) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Debtors or any other party to contest such request, and the Debtors' rights to object to the same are expressly preserved.

(e) Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified to the extent necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant and allow the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agent, the Required DIP Lenders, the Prepetition Agents, the Required Prepetition First Lien Lenders or the Required Prepetition Second Lien Lenders may request in their respective reasonable discretions to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Agents, the DIP Secured Parties, and the Prepetition Secured Parties under this Interim Order; and (d) subject to the Carve Out, authorize the Debtors to make, and the Agents, the DIP Secured Parties, and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order; provided that, during the Remedies Notice Period (defined below), the automatic stay under section 362 of the Bankruptcy Code (to the extent applicable) shall remain in effect.

9. Carve Out.

(a) Priority of Carve Out. Subject to the terms and conditions contained in this Paragraph 9, each of the DIP Liens, DIP Superpriority Claims, Prepetition Liens, Adequate Protection Liens, and Adequate Protection Superpriority Claims shall be subject and subordinate to the Carve Out. The Carve Out shall have such priority over all assets of the Debtors, including any DIP Collateral, Prepetition Collateral, and any funds in the Loan Proceeds Account (as defined in the DIP Credit Agreement).

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in clause (iii) below); (ii) all reasonable and documented out-of-pocket fees and expenses up to $75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all reasonable and documented unpaid out-of-pocket fees and expenses (collectively, the "**Allowed Professional Fees**") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**") incurred at any time before or on the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of a Carve Out Trigger Notice (defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed

$3,000,000 incurred after the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of the Carve Out Trigger Notice (the "**Termination Declaration Date**"), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "**Post-Carve Out Trigger Notice Cap**"). For purposes of the foregoing, "**Carve Out Trigger Notice**" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent (at the direction of Required DIP Lenders) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and counsel to the Committee, if any, which notice shall be delivered following (i) the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked or (ii) the occurrence of a Maturity Date (as defined in the DIP Credit Agreement), other than clauses (a), (c), or (d) of the definition of "Maturity Date" in the DIP Credit Agreement (the "**Specified Maturity Date**").

(c) Carve Out Reserves. On the Termination Declaration Date, the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the then unpaid amounts (including the good-faith estimated and reasonable Professional Fees accrued and not yet invoiced) of the Allowed Professional Fees (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such

then unpaid Allowed Professional Fees (the "**Pre-Carve Out Trigger Notice Reserve**") prior to any and all other claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "**Post-Carve Out Trigger Notice Reserve**" and, together with the Pre-Carve Out Trigger Notice Reserve, the "**Carve Out Reserves**") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such DIP Lenders, notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Debtors to satisfy any or all of the conditions precedent for DIP Loans under the DIP Facility, any termination of the DIP Obligations following an Event of Default, or the occurrence of the Maturity Date, each DIP Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such DIP Lender's pro rata share with respect to such borrowing in accordance with the DIP Facility. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above

(the "**Pre-Carve Out Amounts**"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "**Post-Carve Out Amounts**"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this Paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this Paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Agents, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent, the DIP Escrow Agent and the Prepetition Agents shall not sweep or foreclose on cash (including cash received as a result of the sale or other

disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute DIP Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any facility pursuant to Prepetition Credit Agreements, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(e) No Direct Obligation to Pay Allowed Professional Fees. None of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, the DIP Escrow Agent, the DIP

Lenders, or the Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall otherwise be entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

10. Reserved.

11. Reservation of Rights of the DIP Agent, DIP Escrow Agent, DIP Lenders, and Prepetition Secured Parties. Subject in all cases to the Carve Out, notwithstanding any other provision in this Interim Order or the DIP Documents to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (a) any of the rights of any of the Prepetition Secured Parties to seek any other or supplemental relief in respect of the Debtors including the right to seek additional adequate protection at and following the Final Hearing; provided that any such further or different adequate protection shall at all times be subordinate and junior to the Carve Out and the claims and liens of the DIP Secured Parties granted under this Interim Order and the DIP Documents; (b) any of the rights of the DIP Secured Parties or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of the DIP Secured Parties or the Prepetition Secured Parties to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases, conversion of any of the

Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of the Cases, or (iii) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (c) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of any of the DIP Secured Parties or the Prepetition Secured Parties. The delay in or failure of the DIP Secured Parties and/or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies shall not constitute a waiver of any of the DIP Secured Parties' or the Prepetition Secured Parties' rights and remedies.

12. Reservation of Certain Committee and Third Party Rights and Bar of Challenges and Claims. Subject to the Challenge Period (defined below), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the Debtors' Stipulations, shall be binding upon the Debtors, their estates, and any of their respective successors in all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including, the Debtors' Stipulations, shall be binding upon all other parties in interest, including any Committee and any other person acting on behalf of the Debtors' estates, unless and to the extent that a party in interest with proper standing granted by order of the Court (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (i) before the earlier of (a) except as to any Committee, seventy-five (75) calendar days after entry of the Interim Order, (b) in the case of any such adversary proceeding or contested matter filed by any Committee, sixty (60) calendar days after the appointment of such Committee, and (c) the date of entry of an order confirming a chapter 11 plan, subject to further extension by written agreement of the Prepetition First Lien Agent (acting at the direction of the Required Prepetition First Lien Lenders) and the

Prepetition Second Lien Agent (acting at the direction of the Required Prepetition Second Lien Lenders) (in each case, a "**Challenge Period**" and the date of expiration of each Challenge Period being, a "**Challenge Period Termination Date**"); provided, however, that if, prior to the end of a Challenge Period (x) the cases are converted to chapter 7, or (y) a chapter 11 trustee is appointed, then, in each such case, the Challenge Period applicable to the chapter 7 trustee or the chapter 11 trustee shall be the time remaining under the applicable Challenge Period plus ten (10) days; (ii) seeking to avoid, object to, or otherwise challenge the findings or Debtors' Stipulations regarding: (a) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agents and the Prepetition Secured Parties; or (b) the validity, enforceability, allowability, priority, secured status, or amount of the Prepetition Obligations (any such claim, a "**Challenge**"), and (iii) in which the Court enters a final order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter. Upon the expiration of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is filed and overruled): (a) any and all such Challenges by any party (including the Committee, if any, any chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Cases) shall be deemed to be forever barred; (b) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Cases and any Successor Cases; (c) the Prepetition Indebtedness shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected secured claims, not subject to recharacterization, subordination, or avoidance; and (d) all of the Debtors' stipulations and admissions contained in this Interim Order, including the Debtors'

Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Debtors, the Debtors' estates, and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases. Furthermore, if any such adversary proceeding or contested matter is timely and properly filed under the Bankruptcy Rules, the stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Challenge Period Termination Date. Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including, without limitation, any Committee appointed in the Cases, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation any challenges (including a Challenge) with respect to the Prepetition Credit Documents, the Prepetition Liens, and the Prepetition Obligations, and a separate order of the Court conferring such standing on any Committee or other party-in-interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party-in-interest.

13. DIP Termination Date. On the DIP Termination Date (defined below), (a) all DIP Obligations shall be immediately due and payable, all commitments to extend credit under the DIP Facility will terminate; (b) all authority to use Cash Collateral shall cease; provided, however, that during the Remedies Notice Period, the Debtors may use Cash Collateral to fund the Carve Out and pay payroll and other expenses critical to the administration of the Debtors' estates strictly in accordance with the Approved Budget, subject to such variances as permitted in the DIP Credit

Agreement; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Documents in accordance with this Interim Order. For the purposes of this Interim Order, the "**DIP Termination Date**" shall mean the "**Maturity Date**" as defined in the DIP Credit Agreement.

14. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Documents, shall constitute an event of default (collectively, the "**Events of Default**"): (a) the failure of the Debtors to comply with or perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order; or (b) the occurrence of an "Event of Default" under the DIP Credit Agreement (subject to any applicable cure or grace period).

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence of and during the continuation of an Event of Default, or a Specified Maturity Date, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Remedies Notice Period, (a) the DIP Agent (at the direction of Required DIP Lenders) may declare (any such declaration shall be referred to herein as a "**Termination Declaration**") (i) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP Facility, (iii) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (iv) the application of the Carve Out through the delivery of the Carve Out Trigger Notice to the Borrower and (b) subject to Paragraph 13 above, the DIP Agent (at the

direction of Required DIP Lenders) may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of any such date a Termination Declaration is delivered and the DIP Termination Date shall be referred to herein as the "Termination Date"). The Termination Declaration shall not be effective until notice has been provided by electronic mail (or other electronic means) to counsel to the Debtors (Weil, Gotshal & Manges LLP), counsel to the Committee, if any, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) Business Days after the date a Termination Declaration is delivered (the "Remedies Notice Period"): (a) the DIP Agent (at the direction of Required DIP Lenders) shall be entitled to exercise its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations and DIP Superpriority Claims; and (b) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Credit Documents and this Interim Order with respect to the Debtors' use of Cash Collateral; provided, however, for the avoidance of doubt the Debtors may continue to use Cash Collateral in accordance with Paragraph 13 of this Interim Order during the Remedies Notice Period. During the Remedies Notice Period, the Debtors, the Committee, if any, and/or any party in interest shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court. Except as set forth in this Paragraph 15 or otherwise ordered by the Court prior to the expiration of the Remedies Notice Period, upon the expiration of the Remedies Notice Period, the Debtors shall be deemed to have waived their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Agent, the DIP Escrow

Agent, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order. Unless the Court has determined that an Event of Default has not occurred and/or is not continuing or the Court orders otherwise, the automatic stay shall automatically be terminated as to all of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties (solely with respect to the use of Cash Collateral to the extent permitted hereunder) at the expiration of the Remedies Notice Period without further notice or order, and the DIP Agent (at the direction of Required DIP Lenders) and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, and in the Prepetition Credit Documents, as applicable, or as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order.

16. Limitation on Charging Expenses Against Collateral. Subject to entry of the Final Order granting such relief, no expenses of administration of the Cases or any Successor Cases or future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Prepetition Collateral or the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. The Debtors are hereby authorized to use the Cash Collateral of the Prepetition Secured Parties, but solely for the purposes set forth in this Interim

Order and in accordance with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents) including, without limitation, to make payments on account of the Adequate Protection Obligations provided for in this Interim Order and to make any transfers between Debtors necessary to comply with the terms of the DIP Documents and this Interim Order.

18. Expenses and Indemnification.

(a) The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Documents as such amounts become due and without need to obtain further Court approval, including, without limitation, backstop, closing, arrangement or commitment fees (including all fees and other amounts owed to the DIP Lenders), the DIP Administrative Agent's fees, the DIP Collateral Agent's fees, and the DIP Escrow Agent's fees, the reasonable and documented out-of-pocket fees and disbursements of counsel and other professionals to the extent set forth in Paragraph 8(c) of this Interim Order, whether or not such fees arose before or after the Petition Date, all to the extent provided in this Interim Order or the DIP Documents. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date (as defined in the DIP Credit Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel and advisors to the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, and the Prepetition Secured Parties, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, or the Prepetition Secured Parties to first deliver a copy of its invoice as provided for herein.

(b) The Debtors shall be jointly and severally obligated to pay all fees and expenses described above, which obligations shall constitute DIP Obligations. Provided no Fee Objection (defined below) has been made, the Debtors shall pay the reasonable and documented out-of-pocket professional fees, expenses, and disbursements of professionals to the extent provided for in paragraph 8(c) of this Interim Order (collectively, the "**Lender Professionals**" and, each, a "**Lender Professional**") as soon as reasonably practicable after a ten (10) Business Days review period commencing with the receipt by counsel for the Debtors, any Committee, and the U.S. Trustee of each of the invoices therefor (the "**Invoiced Fees**" and such review period, the "**Review Period**") and without the necessity of filing formal fee applications, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of the Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege or protection, or any other evidentiary privilege or protection recognized under applicable law; provided that, upon the request of the U.S. Trustee prior to the expiration of the Review Period, the applicable Lender Professional shall provide more detailed support of the Invoiced Fees to the U.S. Trustee on a confidential basis. The Debtors, any Committee, or the U.S. Trustee (collectively, the "**Fee Notice Parties**") may dispute the payment of any portion of

the Invoiced Fees (the "**Disputed Invoiced Fees**") if, within the Review Period, a Fee Notice Party notifies the submitting party in writing setting forth the specific objections (a "**Fee Objection**") to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten (10) days prior written notice to the submitting party of any hearing on such motion or other pleading). For the avoidance of doubt, the Debtors shall promptly pay in full all Invoiced Fees in accordance with the terms of this paragraph other than the Disputed Invoiced Fees.

(c) In addition, the Debtors will indemnify the DIP Lenders, the DIP Agent, the DIP Escrow Agent, and their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing (each, an "**Indemnified Person**") and hold them harmless from and against all costs, expenses (including but not limited to reasonable and documented out-of-pocket legal fees and expenses), and liabilities arising out of or relating to the transactions contemplated hereby and any actual or proposed use of the proceeds of any loans made under the DIP Facility; provided that no such person will be indemnified for costs, expenses, or liabilities to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have been incurred solely by reason of the gross negligence, actual fraud, bad faith, or willful misconduct of such person (or their related persons). No Indemnified Person shall have any liability (whether direct or indirect, in contract, tort, or otherwise) to the Debtors or any shareholders or creditors of the Debtors for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted solely from such Indemnified Person's gross negligence, actual fraud, bad faith, or willful misconduct or, solely with respect to the DIP Lenders, breach of their obligations under the DIP Documents,

and in no event shall any Indemnified Person be liable on any theory of liability for any special, indirect, consequential, or punitive damages.

19. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

20. Section 507(b) Reservation. Subject to the Carve Out, nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during the Cases. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by any of the Prepetition Secured Parties that the adequate protection granted herein does in fact adequately protect any of the Prepetition Secured Parties against any Diminution in Value of their respective interests in the Prepetition Collateral (including the Cash Collateral).

21. Insurance. Until the DIP Obligations have been indefeasibly paid in full, at all times the Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral and the DIP Collateral on the terms set forth in the DIP Documents.

22. No Waiver for Failure to Seek Relief. The failure or delay of the DIP Agent, the DIP Escrow Agent, or the Required DIP Lenders to exercise rights and remedies under this Interim Order, the DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

23. Perfection of the DIP Liens and Adequate Protection Liens.

(a) The DIP Agent, the DIP Escrow Agent, and the Prepetition Agents are hereby authorized, but not required, to file or record financing statements, intellectual property

filings, mortgages, deposit account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Whether or not the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) shall choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not, subject to the Challenge Period, subject to challenge, dispute, or subordination as of the date of entry of this Interim Order. If the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) determine to file or execute any financing statements, agreements, notice of liens, or similar instruments, the Debtors shall cooperate and assist in any such execution and/or filings as reasonably requested by the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the automatic stay shall be modified to allow such filings.

(b) A certified copy of this Interim Order may be filed with or recorded in filing or recording offices by or on behalf of the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim

Order for filing and recording; provided, however, that notwithstanding the date of any such filing, the date of such perfection shall be the date of this Interim Order.

(c) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code, subject to applicable law. Any such provision shall have no force and effect with respect to the granting of the DIP Liens and the Adequate Protection Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in accordance with the terms of the DIP Credit Agreement or this Interim Order, subject to applicable law.

24. Reserved.

25. Release. Subject to the rights and limitations set forth in Paragraphs E(v) and 12 of this Interim Order, and effective upon entry of this Interim Order, each of the Debtors and the Debtors' estates, on their own behalf and on behalf of each of their predecessors, their successors, and assigns, shall, to the maximum extent permitted by applicable law, unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the DIP Secured Parties, and each of the Prepetition Secured Parties, and each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, and predecessors in interest, each in their capacity as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations,

actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description that exist on the date hereof with respect to or relating to the DIP Obligations, the DIP Liens, the DIP Documents, the Prepetition Obligations, the Prepetition Liens, or the Prepetition Credit Documents, as applicable, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the DIP Secured Parties and the Prepetition Secured Parties; provided that nothing in this paragraph shall in any way limit or release the obligations of any DIP Secured Party under the DIP Documents.

26. Credit Bidding. Subject to the terms of the RSA, and section 363(k) of the Bankruptcy Code, the DIP Agent (at the direction of the Required DIP Lenders), the Prepetition First Lien Agent (at the direction of the Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of the Required Prepetition Second Lien Lenders) shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the underlying lenders' respective claims, including, for the avoidance of doubt, Adequate Protection Superpriority Claims, if any, in any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under Bankruptcy Code section 1129(b)(2)(A)(ii)-(iii).

27. Preservation of Rights Granted Under this Interim Order.

(a) Unless and until all DIP Obligations are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Credit Documents or this Interim Order, or otherwise seek to exercise or enforce any rights or remedies against such DIP Collateral; and (ii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral, except as set forth in Paragraph 23 herein.

(b) In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, any liens or claims granted to the DIP Secured Parties or the Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

(c) Unless and until all DIP Obligations, Prepetition Obligations, and Adequate Protection Payments are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly (i) except as permitted under the DIP Documents or, if not provided for therein, with the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the Required DIP Lenders, the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), the Required Prepetition First Lien

Lenders, the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the Required Prepetition Second Lien Lenders, (x) any modification, stay, vacatur, or amendment of this Interim Order or (y) a priority claim for any administrative expense or unsecured claim against any of the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in sections 503(b), 507(a), or 507(b) of the Bankruptcy Code) in any of the Cases, *pari passu* with or senior to the DIP Superpriority Claims, the Adequate Protection Superpriority Claims, or the Prepetition Obligations, or (z) any other order allowing use of the DIP Collateral; (ii) except as permitted under the DIP Documents (including the Carve Out), any lien on any of the DIP Collateral or the Prepetition Collateral with priority equal or superior to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens, as applicable; (iii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iv) except as set forth in the DIP Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor; (v) an order converting or dismissing any of the Cases; (vi) an order appointing a chapter 11 trustee in any of the Cases; or (vii) an order appointing an examiner with enlarged powers in any of the Cases.

(d) Notwithstanding any order dismissing any of the Cases entered at any time, (x) the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Payments are indefeasibly paid in full, in cash (and such DIP Liens, DIP Superpriority Claims, Adequate Protection Liens,

Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall, notwithstanding such dismissal, remain binding on all parties in interest); and (y) to the fullest extent permitted by law the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in clause (x) above.

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired, or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, (ii) the entry of an order approving the sale of any Prepetition Collateral or DIP Collateral pursuant to section 363(b) of the Bankruptcy Code, or (iii) the entry of an order confirming a chapter 11 plan in any of the Cases. Pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Cases, in any Successor Cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code. The DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Secured Parties and the Prepetition Secured Parties granted by the provisions of this Interim Order shall continue in full force and effect until the DIP Obligations and the Adequate Protection Payments are indefeasibly

paid in full, in cash (or, with respect to the DIP Obligations, otherwise satisfied in a manner agreed to by the Required DIP Lenders, the DIP Agent (acting at the direction of the Required DIP Lenders), and the DIP Escrow Agent).

(f) Other than as set forth in this Interim Order, neither the DIP Liens nor the Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest granted in any of the Cases or arising after the Petition Date, and neither the DIP Liens nor the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

28. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral, including Cash Collateral, or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), initiate, seek standing with respect to, assert, prosecute, join, commence, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Documents, the Prepetition Credit Documents, or this Interim Order, including,

without limitation, for the payment of any services rendered by the professionals retained by the Debtors or any Committee appointed in these Cases in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral or the Prepetition Collateral or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Parties related to the DIP Obligations or the Prepetition Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Prepetition Obligations, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', and the Prepetition Secured Parties' liens or security interests in the DIP Collateral or Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Prepetition Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations, or by or on behalf of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any

Avoidance Actions related to the DIP Obligations, the DIP Liens, the Prepetition Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent, the DIP Escrow Agent, or the DIP Lenders related to the DIP Obligations or the DIP Liens, or (y) any of the Prepetition Liens or any other rights or interests of any of the Prepetition Secured Parties related to the Prepetition Obligations or the Prepetition Liens; provided that no more than $50,000 of the proceeds of the DIP Facility, the DIP Collateral, or the Prepetition Collateral, including the Cash Collateral, in the aggregate, may be used by any Committee appointed in these Cases, if any, solely to investigate, within the Challenge Period, the claims, causes of action, adversary proceedings, or other litigation against the Prepetition Secured Parties solely concerning the legality, validity, priority, perfection, enforceability or extent of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations. Nothing contained in this Paragraph 28 shall prohibit the Debtors from responding or objecting to or complying with discovery requests of any Committee, in whatever form, made in connection with such investigation or the payment from the DIP Collateral (including Cash Collateral) of professional fees related thereto or from contesting or challenging whether a Termination Declaration has in fact occurred.

29. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Documents unless all of the conditions precedent to the making of such extensions of credit under the applicable DIP Documents have been satisfied in full or waived in accordance with such DIP Documents.

30. Binding Effect; Successors and Assigns. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including without limitation, the DIP Secured Parties, the Prepetition Secured Parties, any Committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; provided that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan (whether under the DIP Credit Agreement, a promissory note or otherwise) to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates.

31. Limitation of Liability. Subject to entry of a Final Order, in determining to make any loan under the DIP Documents, permitting the use of Cash Collateral, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms,

or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.* as amended, or any similar federal or state statute). Furthermore, nothing in this Interim Order or in the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the prepetition or post-petition activities of any of the Debtors.

32. No Requirement to File Claim for DIP Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, none of the DIP Agent, the DIP Escrow Agent, or any DIP Lender shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the DIP Obligations, all of which shall be due and payable in accordance with the DIP Documents without the necessity of filing any such proof of claim or request for payment of administrative expenses, and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or enforceability of any of the DIP Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect the DIP Agent's, the DIP Escrow Agent's, or any DIP Lender's rights, remedies, powers, or privileges under any of the DIP Documents, this Interim Order, or applicable law. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

33. No Requirement to File Claim for Prepetition Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without

limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, neither the Prepetition Agents nor any Prepetition Secured Parties shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the Prepetition Obligations or Adequate Protection Superpriority Claims; and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or enforceability of any of the Prepetition Credit Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect any Prepetition Agent's or any Prepetition Secured Party's rights, remedies, powers, or privileges under any of the Prepetition Credit Documents, this Interim Order, or applicable law. In the event any Prepetition Agent nevertheless files a proof of claim, such Prepetition Agent is hereby authorized to file a single consolidated master proof of claim for all applicable Prepetition Obligations arising under the applicable Prepetition Credit Documents and applicable Adequate Protection Superpriority Claims, and such master proof of claim shall be deemed to constitute the filing of such proof of claim in each of the Cases of any Debtor against whom a claim may be asserted under the applicable Prepetition Credit Documents or this Interim Order. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

34. No Marshaling. Subject to entry of a Final Order granting such relief, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral, and proceeds of the DIP Collateral shall be received and applied pursuant to this Interim Order and the DIP Documents

notwithstanding any other agreement or provision to the contrary. Subject to entry of a Final Order granting such relief, the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral.

35. Reserved.

36. Equities of the Case. The Prepetition Secured Parties shall each be entitled to all the rights and benefits of section 522(b) of the Bankruptcy Code, and, subject to and upon entry of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the Collateral (including the Prepetition Collateral).

37. Final Hearing. The Final Hearing on the Motion shall be held on _____, 2020, at__:__ _.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _____, 2020, and shall be served on: [____]. In the event no objections to entry of the Final Order are timely received, this Court may enter such Final Order without need for the Final Hearing.

38. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

39. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Initial Approved Budget

Project Study
Global Consolidated
Initial Approved Budget

Week Number	1	2	3	4	5	6	7	8	9	10
Week Ending	06/12/20	06/19/20	06/26/20	07/03/20	07/10/20	07/17/20	07/24/20	07/31/20	08/07/20	08/14/20
Operating Forecast										
Cash Receipts	7,366,129	7,033,970	9,417,178	7,208,216	4,714,145	5,963,146	4,981,788	9,264,077	6,709,218	6,178,481
Operational Disbursements										
Compensation & Benefits	(8,648,467)	(3,199,443)	(6,162,365)	(2,680,099)	(669,800)	(5,907,556)	(2,709,583)	(7,324,246)	(1,146,634)	(5,919,015)
Rent & Utilities	(273,285)	(205,510)	(187,733)	(422,550)	(273,285)	-	(55,510)	(187,733)	(420,385)	(273,285)
Other Operating Disbursements	(1,461,745)	(3,560,212)	(3,531,658)	(8,717,037)	(2,959,957)	(2,988,511)	(2,959,957)	(2,959,957)	(2,657,611)	(6,564,641)
Total Operational Disbursements	**(10,383,497)**	**(6,965,164)**	**(9,881,756)**	**(11,819,686)**	**(3,903,042)**	**(8,896,067)**	**(5,725,050)**	**(10,471,937)**	**(4,224,630)**	**(12,756,940)**
Non-Operational Disbursements										
Professional Fees	(7,696,422)	(600,000)	-	(140,000)	-	(150,000)	-	(2,650,000)	-	(42,951,234)
Debt Service	-	(3,300,000)	-	(711,858)	-	-	-	(691,011)	-	(4,850,000)
Total Non-Operational Disbursements	**(7,696,422)**	**(3,900,000)**	**-**	**(851,858)**	**-**	**(150,000)**	**-**	**(3,341,011)**	**-**	**(47,801,234)**
Taxes	(504,876)	(517,798)	(238,174)	(181,267)	(51,321)	(902,076)	(114,765)	(253,407)	(461,195)	(310,525)
Net Cash Flow	**(11,218,666)**	**(4,348,993)**	**(702,752)**	**(5,644,595)**	**759,782**	**(3,984,997)**	**(858,026)**	**(4,802,278)**	**2,023,393**	**(54,690,218)**
Cash transferred to Non-Debtors										
Cash Transferred	-	1,500,000	500,000		2,000,000		2,000,000		2,000,000	
Cash Transferred Cumulative	-	1,500,000	2,000,000	2,000,000	4,000,000	4,000,000	6,000,000	6,000,000	8,000,000	8,000,000
Liquidity										
Liquidity										
Cash	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410	46,922,721
AR Facility Availability	-	-	-	-	-	-	-	-	-	-
Revolver Availability	-	-	-	-	-	-	-	-	-	-
Less: Unavailable Foreign Cash	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)
Total Liquidity	**12,392,146**	**28,241,465**	**42,559,625**	**31,993,111**	**29,459,100**	**31,293,519**	**31,951,673**	**37,983,068**	**35,296,166**	**46,272,477**
Senior Secured Super-Priority TL										
Beginning Balance	-	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000
Additional Borrowing/(Repayment)	-	25,000,000	-	-	-	10,000,000	5,000,000	-	-	20,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	(60,000,000)
Ending Balance	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000	-
New First Out TL										
Beginning Balance	-	-	-	-	-	-	-	-	-	-
Additional Borrowing/(Repayment)	-	-	-	-	-	-	-	-	-	50,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	60,000,000
Ending Balance	-	-	-	-	-	-	-	-	-	110,000,000
AR Facility										
Beginning Balance	67,760,133	67,760,133	67,760,133	68,365,479	68,365,479	68,365,479	68,365,479	68,365,479	63,397,178	63,397,178
Plus: Net Borrowing	-	-	21,467,015	-	-	-	-	17,357,918	-	-
Less: Repayment	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**67,760,133**	**67,760,133**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**63,397,178**	**63,397,178**	**63,397,178**
Less: Restricted Cash Balance	(16,059,980)	(20,861,669)	(6,446,103)	(11,368,022)	(14,661,815)	(18,842,399)	(22,326,219)	(6,524,244)	(11,234,539)	(15,568,011)
AR Facility Pro Forma Ending Balance	**51,700,153**	**46,898,464**	**61,919,376**	**56,997,457**	**53,703,664**	**49,523,080**	**46,039,260**	**56,872,934**	**52,162,639**	**47,829,167**
Restricted Cash										
Beginning Balance	11,029,101	16,059,980	20,861,669	6,446,103	11,368,022	14,661,815	18,842,399	22,326,219	6,524,244	11,234,539
Plus: CIT Collections	5,030,879	4,801,689	6,446,103	4,921,919	3,293,793	4,180,584	3,483,820	6,524,244	4,710,295	4,333,471
Less: AR Facility Paydown	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**16,059,980**	**20,861,669**	**6,446,103**	**11,368,022**	**14,661,815**	**18,842,399**	**22,326,219**	**6,524,244**	**11,234,539**	**15,568,011**
Cash										
Beginning Balance	29,291,936	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410
Change in Cash	(16,249,546)	15,849,318	14,318,160	(10,566,514)	(2,534,011)	1,834,419	658,154	6,031,396	(2,686,902)	10,976,310
Ending Balance	**13,042,390**	**28,891,709**	**43,209,869**	**32,643,355**	**30,109,344**	**31,943,763**	**32,601,917**	**38,633,312**	**35,946,410**	**46,922,721**

EXHIBIT 2

Form of DIP Credit Agreement

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

dated as of June [_], 2020

among

Pointwell Limited,
as the Parent,

Skillsoft Corporation,
as the Borrower

the several Lenders
from time to time party hereto,

and

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as the Administrative Agent, the Collateral Agent and the Escrow Agent

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SCHEDULES

EXHIBITS

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of June [__], 2020, among Pointwell Limited, a limited liability company incorporated under the laws of Ireland with registration number 540778 (the "**Parent**"), SKILLSOFT CORPORATION, a Delaware corporation (the "**Borrower**"), as the borrower, the lending institutions from time to time parties hereto (each, a "**Lender**" and, collectively, the "**Lenders**"), and WILMINGTON SAVINGS FUND SOCIETY, FSB, as the Administrative Agent, the Collateral Agent and the Escrow Agent (such terms and each other capitalized term used but not defined in this preamble having the meaning provided in Section 1).

WHEREAS, on June [_], 2020 (the "**Petition Date**"), each Credit Party (together with any of its Subsidiaries and Affiliates that are or become debtors under the Chapter 11 Cases, collectively, the "**Debtors**", and each individually, a "**Debtor**") commenced Chapter 11 Case Nos. [___], as administratively consolidated at Chapter 11 Case No. [___] (collectively, the "**Chapter 11 Cases**" and each individually, a "**Chapter 11 Case**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, within four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada, Ltd., in its capacity as foreign representative on behalf of the Debtors, will file an application with The Court of Queen's Bench of New Brunswick (the "**Canadian Bankruptcy Court**") pursuant to Part IV of the CCAA to, among other things, recognize the Chapter 11 Cases as "foreign main proceedings" and grant certain customary related relief (the "**Canadian Recognition Proceeding**");

WHEREAS, prior to the Petition Date, certain of the Lenders provided financing to the Borrower pursuant to (i) that certain First Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition First Lien Agent**"), the lenders party thereto (the "**Pre-Petition First Lien Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition First Lien Credit Agreement**") and (ii) that certain Second Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition Second Lien Agent**" and together with the Pre-Petition First Lien Agent, the "**Pre-Petition Agents**"), the lenders party thereto (the "**Pre-Petition Second Lien Lenders**" and together with the Pre-Petition First Lien Lenders, the "**Pre-Petition Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition Second Lien Credit Agreement**" and together with the Pre-Petition First Lien Credit Agreement, the "**Pre-Petition Credit Agreements**");

WHEREAS, as of the close of business on June [_], 2020, (i) the Pre-Petition First Lien Lenders under the Pre-Petition First Lien Credit Agreement were owed approximately $1,369,925,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition First Lien Credit Agreement) under the Pre-Petition First Lien Credit Agreement and (ii) the Pre-Petition Second Lien Lenders under the Pre-Petition Second Lien Credit Agreement were owed approximately $670,000,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition Second Lien Credit Agreement) under the Pre-Petition Second Lien Credit Agreement;

WHEREAS, the "Obligations" under and as defined in each of the Pre-Petition Credit Agreements are secured by a security interest in substantially all of the existing and after-acquired assets of the Borrower and the Guarantors, subject to the exceptions set forth therein;

WHEREAS, the Borrower has requested, and, upon the terms set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured term loan credit facility of $60,000,000 (the "**Term Loans**"), which will be funded into the Loan Proceeds Account on the Funding Date, subject to certain conditions set forth herein, pursuant to the DIP Order and the Canadian DIP Recognition Order, to fund the costs and expenses related to the Chapter 11 Cases and the Canadian Recognition Proceeding and the general corporate purposes and working capital requirements of the Parent and its Subsidiaries during the pendency of the Chapter 11 Cases, solely pursuant to and in accordance with this Agreement and the Approved Budget;

WHEREAS, subject to the terms hereof, the DIP Order and the Canadian DIP Recognition Order, the Borrower and the Guarantors have agreed to secure all of their Obligations under the Credit Documents by granting to the Collateral Agent, for the benefit of the Administrative Agent, the Collateral Agent and the other Secured Parties, a security interest in and lien upon substantially all of their existing and after-acquired personal property; and

WHEREAS, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

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

Section 1. Definitions

1.1 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"**ABR**" shall mean for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Effective Rate *plus* 1/2 of 1%, (ii) the rate of interest in effect for such day as published in the Wall Street Journal (or comparable publication or service for publishing the "prime rate") as the "prime rate", and (iii) the rate per annum determined in the manner set forth in clause (e) of the definition of Eurocurrency Rate *plus* 1%; provided that notwithstanding the foregoing, in no event shall the ABR applicable to the Term Loans at any time be less than 2.00% per annum. Any change in the ABR due to a change in such rate published as the "prime rate" or in the Federal Funds Effective Rate or Eurocurrency Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"**ABR Loan**" shall mean each Loan bearing interest based on the ABR.

"**Actual Cash on Hand**" shall mean unrestricted cash of the Credit Parties and its Subsidiaries (other than the restricted cash of the Receivables Subsidiary, including any cash collected in respect of receivables that is held as collateral for the Receivables Facility) deposited in commercial banks located in the United States (but not including the amounts deposited in the Loan Proceeds Account) and Canada or otherwise subject to a Control Agreement.

"**Actual Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the amount of the line item "Cash Receipts" as determined by reference to the Approved Budget as then in effect.

"**Actual Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties and their Subsidiaries, (i) (a) the amount of Actual Cash on Hand plus (b) the amount of the proposed Withdrawal pursuant to any outstanding Withdrawal Notice *minus* (ii) the Unrestricted Cash on Hand.

"**Actual Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Actual Restructuring Related Amounts.

"**Actual Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees during such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non-Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Ad Hoc Group of Crossholder Lenders**" shall mean those certain Lenders represented by the Crossholder Lender Advisors.

"**Ad Hoc Group of Lenders**" shall mean those certain Lenders represented by the Specified Lender Advisors.

"**Administrative Agent**" shall mean Wilmington Savings Fund Society, FSB, as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent appointed pursuant to Section 12.9.

"**Administrative Agent's Office**" shall mean the Administrative Agent's address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"**Administrative Questionnaire**" shall have the meaning provided in Section 13.6(b)(ii)(D).

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

"**Affiliate**" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliated Institutional Lender**" shall mean any Affiliate of the Sponsor that is either a bona fide debt fund or that extends credit or buys loans in the ordinary course of business.

"**Affiliated Lender**" shall mean a Lender that is the Sponsor or any Affiliate thereof (other than the Parent or any other Subsidiary of the Parent, or any Affiliated Institutional Lender).

"**Agent Advisors**" shall mean Seward & Kissel LLP, as counsel, and such other firm or local counsel appointed on behalf of, collectively, the Administrative Agent and the Collateral Agent in each relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions).

"**Agent Parties**" shall have the meaning provided in Section 13.17(b).

"**Agents**" shall mean the Administrative Agent and the Collateral Agent.

"**Agreement**" shall mean this Credit Agreement.

"**Agreement Currency**" shall have the meaning provided in Section 13.19.

"**AML Legislation**" shall mean the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, applicable within Canada, including any rules, regulations, guidelines, ordinances, judgments or orders thereunder, as the same may be amended from time to time.

"**Anti-Terrorism Laws**" shall mean any law relating to terrorism, corruption, economic sanctions, or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control, the United Nations Security Council, the European Union, Her Majesty's Treasury (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

"**Applicable Margin**" shall mean, on any date, with respect to each Term Loan that is an (i) ABR Loan, 6.50% per annum and (ii) Eurocurrency Loan, 7.50% per annum.

"**Approved Budget**" shall mean the then most current budget prepared by the Borrower and approved by the Required Lenders in accordance with Section 9.18.

"**Approved Budget Variance Report**" shall mean a report provided by the Borrower to the Administrative Agent, the Specified Lender Advisors and the Crossholder Lender Advisors (a) showing, in each case, on a line item by line item and a cumulative basis, the Actual Cash Receipts, the Actual Operating Disbursement Amounts and the Actual Restructuring Related Amounts as of the last day of the Variance Testing Period then most recently ended, noting therein (i) all variances, on a cumulative basis, from the Budgeted Cash Receipts and the Budgeted Operating Disbursement Amounts for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance in such Variance Testing Period with the Permitted Variances and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the actions which the Borrower has taken or intend to take with respect thereto and (b) which such reports shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via email by any of the Specified Lender Advisors).

"**Approved Fund**" shall mean any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"**Asset Sale**" shall mean:

(i) the sale, conveyance, transfer, or other disposition, in each case, which results in the permanent disposition of the subject property, whether in a single transaction or a series of related transactions, of property or assets (each a "**disposition**") of the Parent or any Subsidiary, or

(ii) the issuance or sale of Equity Interests of any Subsidiary (other than preferred stock of Subsidiaries issued in compliance with Section 10.1), whether in a single transaction or a series of related transactions.

"**Asset Sale Prepayment Event**" shall mean any Asset Sale; provided that, with respect to any Asset Sale, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Asset Sales exceeds $250,000 (the "**Asset Sale Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Asset Sale Prepayment Trigger).

"**Assignment and Acceptance**" shall mean an assignment and acceptance substantially in the form of Exhibit F, or such other form as may be approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) and the Administrative Agent.

"**Attorney Costs**" shall mean all reasonable and documented out-of-pocket fees, expenses and disbursements of any law firm or other external legal counsel.

"**Authorized Officer**" shall mean, with respect to any Person, any individual holding the position of chairman of the board (if an officer), any executive officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Financial Officer, the Treasurer, the Chief People Officer, the Vice President-Finance, a Senior Vice President, a Director, a Manager, or any other senior officer or agent with express authority to act on behalf of such Person designated as such by the board of directors or other managing authority of such Person.

"**Bail-In Action**" shall mean the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"**Bail-In Legislation**" shall mean, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law or regulation for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule or (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Bank Account**" shall mean any Deposit Account, Securities Account and Commodity Account of any Credit Party, each as defined in the UCC, or, if such account is located in Canada, shall mean any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

"**Bankruptcy Code**" shall mean Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"**Bankruptcy Court**" shall mean the "Bankruptcy Court" as defined in the recitals to this agreement or such other court having jurisdiction over the Chapter 11 Cases.

"**Bankruptcy Rules**" shall mean the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time be in effect and applicable to the Chapter 11 Cases.

"**Benefited Lender**" shall have the meaning provided in Section 13.9(a).

"**BIA**" means the *Bankruptcy and Insolvency Act* (Canada), RSC 1985, c. B-3, as amended.

"**Board**" shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

"**Borrower**" shall have the meaning provided in the preamble to this Agreement.

"**Borrower Materials**" shall have the meaning provided in Section 13.17(b).

"**Borrowing**" shall mean the Term Loans made on the Funding Date.

"**Budgeted Borrower Professional Fees**" shall mean with respect to any period, the amount that corresponds to the line item "Professional Fees" in the Approved Budget, as then in effect.

"**Budgeted Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the line item "Cash Receipts" in the Approved Budget, as then in effect.

"**Budgeted Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties, the amounts set forth as of such date of unrestricted cash of the Credit Parties and its Subsidiaries in the Approved Budget.

"**Budgeted Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Budgeted Restructuring Related Amounts.

"**Budgeted Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees for such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Business Day**" shall mean any day excluding Saturday, Sunday, and any other day on which banking institutions in New York City and Wilmington, Delaware are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a Eurocurrency Loan, any fundings, disbursements, settlements, and payments in respect of any such Eurocurrency Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the applicable London interbank market.

"**Canadian Bankruptcy and Insolvency Law**" shall mean any federal, provincial or territorial Canadian law from time to time in effect relating to bankruptcy, winding-up, insolvency, reorganization,

receivership, plans of arrangement or relief or protection of debtors, including the BIA, the CCAA, the *Winding up and Restructuring Act* (Canada), the *Business Corporations Act* (New Brunswick) and any other applicable corporate legislation.

"**Canadian Bankruptcy Court**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Benefit Plan**" shall mean any pension, retirement, savings, profit sharing, health, medical, dental, disability, life insurance, welfare or other employee benefit plan, program, policy or practice, whether written or oral, funded or unfunded, registered or unregistered, which is sponsored, maintained or contributed to or required to be contributed to by any Credit Party or under which any Credit Party has any actual or potential liability in respect of its employees or former employees in Canada, other than a Canadian Pension Plan or a Canadian Statutory Plan.

"**Canadian Confirmation Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Confirmation Order in Canada, which order shall be in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Defined Benefit Plan**" shall mean a Canadian Pension Plan which contains a "defined benefit provision" as defined in subsection 147.1(1) of the Income Tax Act (Canada).

"**Canadian DIP Recognition Order**" shall mean the Canadian Supplemental Order, unless the Canadian Final Order shall have been entered, in which case it means the Canadian Final Order.

"**Canadian Final Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Final Order in Canada and providing for a super priority charge over the Canadian Property, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Interim Order**" shall mean, collectively, the Canadian Recognition Order and the Canadian Supplemental Order.

"**Canadian Pension Plan**" shall mean a "registered pension plan", as that term is defined in subsection 248(1) of the *Income Tax Act* (Canada), which is or was sponsored, administered or contributed to, or required to be contributed to by, any Credit Party or under which any Credit Party has any actual or potential liability.

"**Canadian Property**" shall mean all current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Debtors located in Canada.

"**Canadian Recognition Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing the Chapter 11 Cases as "foreign main proceedings" under Part IV of the CCAA, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the

Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Canadian Recognition Proceeding**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Statutory Plan**" shall mean any government sponsored pension, employment insurance, parental insurance or worker compensation plan.

"**Canadian Supplemental Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Interim Order in Canada, providing for the CCAA DIP Lenders' Charge, granting a stay of proceedings in respect of the Debtors in Canada and granting certain customary additional relief in the Canadian Recognition Proceeding, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Capital Lease**" shall mean, as applied to any Person, any lease of any property (whether real, personal, or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person.

"**Capital Stock**" shall mean (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights, or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited), and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that "cash-settled phantom appreciation programs" in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

"**Capitalized Lease Obligation**" shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a Capital Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

"**Carve Out**" has the meaning assigned to such term in the DIP Order.

"**Carve Out Trigger Notice**" has the meaning assigned to such term in the DIP Order.

"**Cash Equivalents**" shall mean:

(i) Dollars,

(ii) (a) Euro, Pounds Sterling, Canadian Dollars, or any national currency of any Participating Member State in the European Union or (b) local currencies held from time to time in the ordinary course of business,

(iii) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government, Canadian government, Her Majesty's Government, or any country that is a member state of the European Union or any agency or instrumentality thereof the securities

of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,

(iv) certificates of deposit, time deposits, and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year, and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the Dollar Equivalent as of the date of determination) in the case of foreign banks,

(v) repurchase obligations for underlying securities of the types described in clauses (iii), (iv), and (ix) entered into with any financial institution meeting the qualifications specified in clause (iv) above,

(vi) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P and in each case maturing within 24 months after the date of creation thereof,

(vii) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 24 months after the date of creation or acquisition thereof,

(viii) readily marketable direct obligations issued by the federal government, any state, commonwealth, or territory of the United States, or the federal government or any province of Canada, in each case, any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition,

(ix) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition,

(x) solely with respect to any Foreign Subsidiary: (a) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (b) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "A-2" or the equivalent thereof or from Moody's is at least "P-2" or the equivalent thereof (any such bank being an "**Approved Foreign Bank**"), and in each case with maturities of not more than 24 months from the date of acquisition, and (c) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank, in each case, customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by such Foreign Subsidiary organized in such jurisdiction,

(xi) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States, Cash Equivalents shall also include investments of the type and maturity

described in clauses (i) through (ix) above of foreign obligors, which investments have ratings, described in such clauses or equivalent ratings from comparable foreign rating agencies, and

(xii) investment funds investing 90% of their assets in securities of the types described in clauses (i) through (ix) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (i) and (ii) above; provided that such amounts are converted into any currency listed in clauses (i) and (ii) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"**Cash Flow Forecast**" shall mean a consolidated weekly cash flow forecast commencing on the Wednesday before the Closing Date through January 27, 2021, which shall set forth, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period.

"**Cash Management Order**" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after the "first day" hearing, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), which among other matters authorizes the Debtors to maintain their existing cash management and treasury arrangements (as set forth in the Pre-Petition Term Loan Agreement) or such other arrangements as shall be acceptable to the Required Lenders in all material respects (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

"**Casualty Event**" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award in respect of any equipment, fixed assets, or real property (including any improvements thereon) to replace or repair such equipment, fixed assets, or real property; provided that, with respect to any Casualty Event, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Casualty Events, after giving effect to reinvestment rights set forth herein, exceeds $250,000 (the "**Casualty Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Casualty Prepayment Trigger).

"**CCAA**" means the Companies' Creditors Arrangement Act (Canada), R.S.C 1985, c. C-36.

"**CCAA Administration Charge**" means the "Administration Charge" as defined in the Canadian Supplemental Order, in an amount not to exceed CAD$150,000.

"**CCAA DIP Lenders' Charge**" means the "DIP Lenders' Charge" as defined in the Canadian Supplemental Order.

"**CCAA Filing Date**" shall mean the date on which an application to commence the Canadian Recognition Proceeding is made to the Canadian Bankruptcy Court.

"**Change in Law**" shall mean (i) the adoption of any law, treaty, order, policy, rule, or regulation after the Closing Date, (ii) any change in any law, treaty, order, policy, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (iii) compliance by any Lender with any guideline, request, directive, or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law), including, for avoidance of doubt any such adoption, change or compliance in respect of (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules,

regulations, guidelines, or directives thereunder or issued in connection therewith and (b) all requests, rules, guidelines, requirements, or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign regulatory authorities pursuant to Basel III regardless of the date enacted, adopted or issued.

"**Change of Control**" shall mean and be deemed to have occurred if (i) the Permitted Holders shall at any time not beneficially own, in the aggregate, directly or indirectly, at least a majority of the voting power of the outstanding voting stock of the Parent; (ii) [reserved]; (iii) at any time, a Change of Control under clause (i) of either Pre-Petition Credit Agreement shall have occurred; or (iv) the Parent shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Borrower. Notwithstanding the foregoing, the commencement of the Chapter 11 Cases shall not constitute a "Change of Control" hereunder.

"**Chapter 11 Cases**" has the meaning set forth in the recitals of this Agreement.

"**Chapter 11 Plan**" shall mean a chapter 11 plan of liquidation or reorganization in the Chapter 11 Cases in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders in all respects (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and consented to by the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), confirmed by an order (in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) of the Bankruptcy Court under the Chapter 11 Cases (which consent or satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), containing, among other things, (i) a release in favor of the Administrative Agent and the Lenders and their respective affiliates on the terms set forth in the RSA, and (ii) provisions with respect to the settlement or discharge of all claims and other debts and liabilities on the terms set forth in the RSA, as such plan of liquidation or reorganization may be modified, altered, amended or otherwise changed or supplemented with the prior written consent of the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Chapter 11 Plan Disclosure Statement**" shall mean a disclosure statement to accompany the Chapter 11 Plan and provide adequate information to voting creditors as provided by section 1125(a)(1) in the Bankruptcy Code.

"**Charterhouse**" shall mean Charterhouse Capital Partners LLP.

"**Closing Date**" shall mean the date on which the conditions precedent set forth in Section 6.1 shall have been satisfied or waived, which date is June [_], 2020.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"**Collateral**" shall mean (i) all property pledged, charged, assigned or mortgaged or purported to be pledged, charged, assigned or mortgaged pursuant to the Security Documents, excluding in all events Excluded Property and (ii) (x) the "DIP Collateral" referred to in the DIP Order, it being understood that "Collateral" shall include all such "DIP Collateral" irrespective of whether any such property was excluded pursuant to the Pre-Petition Credit Documents and (y) the Canadian Property; provided that the Collateral shall in no event included Excluded Property.

"**Collateral Agent**" shall mean Wilmington Savings Fund Society, FSB, as collateral agent under the Security Documents, or any successor collateral agent appointed pursuant to Section 12.9.

"**Commitment Fee**" shall have the meaning provided in Section 4.1(a).

"**Commitments**" shall mean, with respect to each Lender (to the extent applicable), such Lender's Term Loan Commitment.

"**Communications**" shall have the meaning provided in Section 13.17.

"**Company Advisors**" shall means (i) Alix Partners and (ii) Houlhan Lokey.

"**Confidential Information**" shall have the meaning provided in Section 13.16.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Chapter 11 Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Chapter 11 Plan Disclosure Statement) in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (which satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Contractual Requirement**" shall have the meaning provided in Section 8.3.

"**Control Agreement**" shall mean an account control agreement that establishes the Collateral Agent's "control" over a Bank Account within the meaning of Section 8-106 or 9-104 of the UCC, as applicable, each in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower.

"**Credit Documents**" shall mean this Agreement, the Fee Letter, the Escrow Agreement, the Guarantees, the Security Documents, the Intercompany Note, any promissory notes issued by the Borrower pursuant hereto, any Withdrawal Notice, any other agreements, documents and instruments providing for or evidencing any other Obligations, and any other document or instrument executed or delivered at any time in connection with any Obligations, including any joinder agreement among holders of Obligations, to the extent such are effective at the relevant time, as each may be amended, restated, amended and restated, supplemented, modified, renewed or extended from time to time.

"**Credit Event**" shall mean the Closing Date, the Funding Date and each Withdrawal Date.

"**Credit Party**" shall mean the Parent, the Borrower, and the other Guarantors.

"**Crossholder Lender Advisors**" shall mean (a) Milbank LLP, as legal counsel and (b) Moelis & Company LLC, as financial advisor.

"**Debt Incurrence Prepayment Event**" shall mean any issuance or incurrence by the Parent or any Subsidiary of any Indebtedness not otherwise permitted to be incurred pursuant to Section 10.1 of this Agreement.

"**Debtor Relief Laws**" shall mean the Bankruptcy Code of the United States, Canadian Bankruptcy and Insolvency Law, the Insolvency Act 1986 under the laws of England and Wales, the provisions of law implemented pursuant to the Corporate Insolvency and Governance Bill dated 20 March 2020 under the laws of England and Wales and all other liquidation, conservatorship, bankruptcy, general assignment for

the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, administration, examinership or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Default**" shall mean any event, act, or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"**Defaulting Lender**" shall mean any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of Lender Default.

"**Deferred Net Cash Proceeds**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Designated Jurisdiction**" shall mean any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"**DIP Facility**" shall mean the funding of the Term Loans on the Funding Date.

"**DIP Order**" shall mean the Interim Order, unless the Final Order shall have been entered, in which case it means the Final Order.

"**Direction of the Required Lenders**" shall mean a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any of the Specified Lender Advisors (or any other Lender Advisor selected by the Required Lenders and designated in writing to the Administrative Agent), it being understood and agreed that the Administrative Agent and/or the Collateral Agent and/or the Escrow Agent can conclusively rely on any such written direction or instruction from such Specified Lender Advisor or designated Lender Advisor at the direction of the Required Lenders.

"**disposition**" shall have the meaning assigned such term in clause (i) of the definition of Asset Sale.

"**Disqualified Stock**" shall mean, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, in whole or in part, in each case, prior to the date that is 91 days after the Maturity Date; provided that (i) if such Capital Stock is issued to any plan for the benefit of employees of the Parent or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death, or disability and (ii) no Qualified PECS shall constitute Disqualified Stock.

"**Dollar Equivalent**" shall mean, at any time, (i) with respect to any amount denominated in Dollars, such amount, and (ii) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars, as determined by the Administrative Agent on the basis of the Spot Rate (determined on the most recent date of determination) for the purchase of Dollars with such currency.

"**Dollars**" and "**$**" shall mean dollars in lawful currency of the United States.

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

"**EEA Member Country**" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Environmental Claims**" shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation, or proceedings pursuant to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "**Claims**"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief relating to the presence Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata, and natural resources such as wetlands.

"**Environmental Law**" shall mean any applicable federal, state, provincial, territorial, foreign, or local statute, law, rule, regulation, ordinance, code, and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree, or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or protection of human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release, or threat of Release of Hazardous Materials.

"**Equity Interest**" shall mean Capital Stock and all warrants, options, or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

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

"**ERISA Affiliate**" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party or any Subsidiary thereof, is treated as a single employer under Section 414 (b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"**ERISA Event**" shall mean (i) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (ii) the existence

with respect to any Plan of a non-exempt Prohibited Transaction; (iii) any Reportable Event; (iv) the failure of any Credit Party, any Subsidiary thereof or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (v) a determination that any Pension Plan is in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (vi) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (vii) the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (viii) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (ix) the failure by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (x) the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (xi) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (xii) the failure by any Credit Party, any Subsidiary thereof, or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"**Escrow Agent**" shall mean the Escrow Agent under the Escrow Agreement, which shall initially be Wilmington Savings Fund Society, FSB, in its capacity as Escrow Agent.

"**Escrow Agreement**" shall mean an Escrow Agreement dated as of the Closing Date (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among the Borrower, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Loan Proceeds Account.

"**EU Bail-In Legislation Schedule**" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"**Eurocurrency Loan**" shall mean any Loan bearing interest at a rate determined by reference to the Eurocurrency Rate.

"**Eurocurrency Rate**" shall mean, for any Interest Period with respect to a Eurocurrency Loan, the rate per annum equal to the offered rate administered by ICE Benchmark Administration ("**LIBOR**") or a comparable or successor rate, which rate is approved by the Administrative Agent (at the Direction of the Required Lenders), on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent (at the Direction of the Required Lenders) from time to time) at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to one month commencing that date; provided that, in no event shall the Eurocurrency Rate be less than 1.00% per annum.

"**European Union Regulation**" shall have the meaning given to such term in Section 8.18.

"**Event of Default**" shall have the meaning provided in Section 11.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means, as to any Credit Party, (i) all Deposit Accounts or Securities Accounts that are used solely to hold cash, Cash Equivalents and other assets comprised solely of (a) funds used for payroll and payroll taxes and other employee benefit payments to any Credit Party's officers, directors, employees or consultants, and (b) all taxes required to be collected, remitted or withheld (including, without limitation, federal, state, provincial, territorial and foreign withholding taxes), including, without limitation, the employer's share thereof, (ii) any Deposit Account or Securities Accounts or Futures Account (other than any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada) that, individually, contain an average daily balance of less than $50,000 or in the aggregate, contain an average daily balance of less than $150,000 and (iii) any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada that in the aggregate, contain an average daily balance of less than $250,000.

"**Excluded Property**" shall mean (a) [reserved], (b) [reserved], (c) any governmental licenses or state or local franchises, charters and authorizations to the extent security interest is prohibited by a Requirement of Law (excluding the proceeds therefrom), (d) pledges and security interests prohibited or restricted by any Requirements of Law, (e) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, (f) [reserved], (g) any assets where the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby as determined by the Required Lenders, (h) any Capital Stock of any Receivables Subsidiary, (i) [reserved], (j) [reserved] and (k) [reserved]; provided, however, that Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded Property referred to in clauses (a) through (k) (unless such proceeds, substitutions or replacements would constitute Excluded Property referred to in clauses (a) through (k)).

"**Excluded Subsidiary**" shall mean after giving effect to the DIP Order, (a) [reserved], (b) any Subsidiary of the Parent that is prohibited by any applicable Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Receivables Subsidiary, or (d) [reserved].

"**Excluded Taxes**" shall mean, with respect to any Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its net income or net profits, franchise (and similar) Taxes (imposed in lieu of net income Taxes) or branch profits Taxes (in each case, however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local, or foreign law), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) other than in the case of a Lender that is an assignee pursuant to a request by the Borrower under Section 13.7 (or that designates a new lending office pursuant to a request by the Borrower), any United States federal withholding Tax imposed on amounts payable to or for the account of a Lender pursuant to laws in force at the time such Lender acquires an interest in (or becomes a party to) any Credit Document (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the

applicable Credit Parties with respect to such withholding Tax pursuant to Section 5.4, (iii) any withholding Taxes attributable to a recipient's failure to comply with Section 5.4(e), (iv) [reserved] or (v) any withholding Tax imposed under FATCA.

"**Fair Market Value**" shall mean with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm's length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as determined in good faith by the Borrower.

"**FATCA**" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder, official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the date of this Agreement (or any amended or successor version described above), and any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing.

"**FCPA**" shall have the meaning provided in Section 8.20(c).

"**Federal Funds Effective Rate**" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to a financial institution selected by the Required Lenders (in consultation with the Borrower) on such day on such transactions, which such rate shall be administratively feasible for the Administrative Agent.

"**Fee Letter**" shall mean that certain Fee Letter dated the Closing Date between Wilmington Savings Fund Society, FSB and the Borrower.

"**Fees**" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"**Final Hearing Date**" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"**Final Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on a final basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Required Lenders (which satisfaction of the Required Lender in each case may be communicated via email from any of the Specified Lender Advisors)), which order has not been reversed or stayed or is otherwise subject to a timely filed motion for a stay, rehearing, reconsideration, appeal or any other review without the consent of the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Financial Advisor Engagement Letters**" shall mean (i) that certain agreement executed as of April 1, 2019 between Greenhill & Co., LLC, the Parent and Gibson Dunn & Crutcher LLP and (ii) that certain agreement dated as of January 21, 2020 by and among Moelis & Company LLC, Milbank LLP, and the Parent.

"**Financial Officer**" shall mean the chief financial officer, principal accounting officer, treasurer or controller (or equivalent officer) of the Borrower.

"**Flood Insurance Laws**" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"**Flow of Funds Statement**" shall mean a flow of funds statement relating to payments to be made and credited by all of the parties on the Funding Date (including wire instructions therefor) as prepared by the Borrower and its financial advisor in consultation with (and approved by) the Administrative Agent and the Required Lenders (which such approval may be communicated via email from any of the Specified Lender Advisors).

"**Foreign Benefit Arrangement**" shall mean any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Credit Party**" shall mean the Parent and each Guarantor that is a Foreign Subsidiary.

"**Foreign Law Security Filing**" shall mean any filing or notification required to be made in any registry of a territory outside of the U.S. in order to perfect any security interest created pursuant to the Security Documents.

"**Foreign Plan**" shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Plan Event**" shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (i) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (ii) the failure to register or loss of good standing (if applicable) with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (iii) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the terms of such Foreign Plan or Foreign Benefit Arrangement.

"**Foreign Pledge Agreement**" shall mean each (a) pledge agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other pledge agreement executed by any Credit Party and governed by the laws of any jurisdiction (other than the United States) pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Security Agreement**" shall mean each (a) security agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other security agreement executed by any Credit Party pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Subsidiary**" shall mean each Subsidiary of the Parent that is not a U.S. Subsidiary.

"**Full Payment**" or "**Pay in Full**" or "**Paid in Full**" shall mean, with respect to any Obligations, the indefeasible, full and complete cash payment thereof, including any interest, fees and other charges accruing during the Chapter 11 Cases. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated as well.

"**Fund**" shall mean any Person (other than a natural Person) that is engaged or advises funds or other investment vehicles that are engaged in making, purchasing, holding, or investing in commercial loans and similar extensions of credit in the ordinary course.

"**Funding Date**" shall have the meaning set forth in Section 2.1.

"**GAAP**" shall mean generally accepted accounting principles in the United States, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Furthermore, at any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP and GAAP concepts shall thereafter be construed to refer to IFRS and corresponding IFRS concepts (except as otherwise provided in this Agreement); provided that any such election, once made, shall be irrevocable; provided, further, that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Parent's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give written notice of any such election made in accordance with this definition to the Administrative Agent. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness. Notwithstanding any other provision contained herein, the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations.

"**Governmental Authority**" shall mean any nation, sovereign, or government, any state, province, territory, or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, taxing, regulatory, or administrative functions of or pertaining to government, including a central bank or stock exchange.

"**Granting Lender**" shall have the meaning provided in Section 13.6(g).

"**Guarantee**" shall mean (i) the Debtor-in-Possession Guarantee dated as of the Closing Date made by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time and (ii) any other guarantee of the Obligations made by a Subsidiary in form and substance reasonably acceptable to the Required Lenders (which satisfaction may be communicated by via email from any of the Specified Lender Advisors).

"**guarantee obligations**" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any primary obligor in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (i) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds

(a) for the purchase or payment of any such Indebtedness or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities, or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness, or (iv) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term guarantee obligations shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations or product warranties in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any guarantee obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"**Guarantors**" shall mean (i) each Subsidiary of the Parent that is party to a Guarantee on the Closing Date, (ii) each Subsidiary of the Parent that becomes a party to a Guarantee after the Closing Date pursuant to Section 9.11 or otherwise and (iii) the Parent; provided that (i) in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary) (ii) in no event shall any Immaterial Subsidiary be required to be a Guarantor (unless expressly requested by the Required Lenders in writing after the Closing Date) and (iii) in no event shall any Subsidiary that is described in clause (b) of the definition of "Excluded Subsidiary" be a Guarantor.

"**Hazardous Materials**" shall mean (i) any petroleum or petroleum products, radioactive materials, friable asbestos, polychlorinated biphenyls, and radon gas; (ii) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any Environmental Law; and (iii) any other chemical, material, or substance, which is prohibited, limited, or regulated due to its dangerous or deleterious properties or characteristics by, any Environmental Law.

"**Hedge Agreements**" shall mean (i) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**IFRS**" shall have the meaning given such term in the definition of GAAP.

"**Immaterial Subsidiary**" shall mean any Foreign Subsidiary as of the Closing Date, except to the extent that such Subsidiary is organized under the laws of Canada or any province thereof, Ireland, or England and Wales.

"**Impacted Loans**" shall have the meaning provided in Section 2.10(a).

"**incur**" shall have the meaning provided in Section 10.1.

"**Indebtedness**" shall mean, with respect to any Person, (i) any indebtedness (including principal and premium) of such Person, whether or not contingent (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures, or similar instruments or letters of credit or bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), or (d) representing any hedging obligations, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and hedging obligations) would appear as a net liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Parent solely by reason of push down accounting under GAAP shall be excluded, (ii) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (i) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (iii) to the extent not otherwise included, the obligations of the type referred to in clause (i) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person. The amount of Indebtedness of any Person for purposes of clause (iii) above shall (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

"**Indemnified Liabilities**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Person**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Taxes**" shall mean (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Initial Approved Budget**" shall mean the Approved Budget attached hereto as Exhibit B on the Closing Date; provided that, for the avoidance of doubt, the Initial Approved Budget shall not contemplate or include the funding or prefunding of any executive retention plan.

"**Initial Investors**" shall mean CCP IX LP No. 1, CCP IX LP No. 2 and CCP IX LP Co-Investment LP, and each of their respective Affiliates (excluding any operating portfolio companies of the foregoing).

"**Insolvent**" shall mean, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

"**Intellectual Property**" shall mean all U.S. and non-U.S. intellectual property in all jurisdictions throughout the world, including all (i) (a) patents; (b) copyrights and copyrightable works; (c) trademarks, service marks, trade names, logos, trade dress, and other indicia of origin; (d) trade secrets and know how; and (e) all other intellectual property rights in inventions, processes, developments, technology, software (both in source code and/or object code form), graphics, advertising materials, labels, package designs, website content, photographs, designs, data and databases and confidential, proprietary or non-public information; and, in each case, (a)–(e), including all registrations and applications to register the foregoing; and (ii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds (including in the form of royalty or settlement payments) therefrom.

"**Intercompany Note**" shall mean the amended and restated intercompany demand promissory note dated as of the Closing Date substantially in the form of Exhibit I delivered to the Administrative Agent.

"**Interest Period**" shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

"**Interim Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on an interim basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors), which order is not subject to a stay, injunction or other limitation not approved by the Administrative Agent and the Required Lenders (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Investment**" shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances, or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel, and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests, or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Parent in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment, or other amount received by any Credit Party or any of its Subsidiaries in respect of such Investment to the extent permitted under this Agreement (provided that, with respect to amounts received other than in the form of Cash Equivalents, such amount shall be equal to the Fair Market Value of such consideration).

"**Investment Grade Rating**" shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating organization.

"**Investment Grade Securities**" shall mean:

(i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Credit Parties and their Subsidiaries,

(iii) investments in any fund that invest at least 90% in investments of the type described in clauses (i) and (ii) which fund may also hold immaterial amounts of cash pending investment or distribution, and

(iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"**Irish Debenture**" shall mean the debenture governed by the laws of Ireland, executed by any Foreign Credit Party incorporated in Ireland or holding assets in Ireland in form and substance reasonably satisfactory to the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Irish Obligors**" shall mean Pointwell Limited, Skillsoft Limited, Skillsoft Ireland Limited, Thirdforce Group Limited, SSI Investments I Limited, SSI Investments II Limited and SSI Investments III Limited.

"Irish Security Documents" shall mean the Irish Debenture and the Irish Share Charge and Security Assignment.

"**Irish Share Charge and Security Assignment**" shall mean the share charge and security assignment governed by the laws of Ireland, to be executed by any Credit Party (other than an Irish Obligor) that holds shares in an Irish Obligor or that is owed a debt by an Irish Obligor in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Judgment Currency**" shall have the meaning provided in Section 13.19.

"**Legal Reservations**" shall mean (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing, (b) applicable Debtor Relief Laws, (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void, (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge, (e) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty or considered to be interest and thus void, (f) the principle that may prohibit restrictions in relation to a voluntary prepayment of loans bearing floating rates of interest and may restrict charging prepayment fees for a voluntary prepayment of such loans, (g) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, (h) the principle that the creation or purported creation of collateral over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which security has purportedly been created, (i) similar principles, rights and defenses under the laws of any relevant jurisdiction and (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions under this Agreement

"**Lender**" shall have the meaning provided in the preamble to this Agreement.

"**Lender Advisors**" shall mean (x) the Specified Lender Advisors, (y) the Crossholder Lender Advisors and (z) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders or the Ad Hoc Group of Crossholder Lenders and/or the Required Lenders.

"**Lender Default**" shall mean (i) the refusal or failure of any Lender to make available its portion of any incurrence of Loans, which refusal or failure is not cured within one business day after the date of such refusal or failure, unless such Lender notifies the Administrative Agent in writing that such refusal or failure is the result of such Lender's good faith determination that one or more conditions precedent to

funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in writing) has not been satisfied, (ii) the failure of any Lender to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one business day of the date when due, unless the subject of a good faith dispute, (iii) a Lender has notified, in writing, the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations under this Agreement or has made a public statement to that effect with respect to its funding obligations under this Agreement or a Lender has publicly announced that it does not intend to comply with its funding obligations under other loan agreements, credit agreements or similar facilities generally, (iv) a Lender has failed to comply with its funding obligations under this Agreement or (v) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

"**Lender-Related Distress Event**" shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a "**Distressed Person**"), a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, or a custodian, conservator, administrator, administrative receiver, receiver, receiver and manager, trustee or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, or such Distressed Person, or any Person that directly or indirectly controls such Distressed Person or is subject to a forced liquidation or such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.

"**LIBOR**" shall have the meaning provided in the definition of Eurocurrency Rate.

"**Lien**" shall mean with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the UCC (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease or a license to Intellectual Property be deemed to constitute a Lien.

"**Loan**" shall mean any Term Loan.

"**Loan Proceeds Account**" shall mean a Loan Proceeds Account with the Escrow Agent into which the proceeds of the Loans shall be deposited and retained subject to withdrawal thereof by the Borrower pursuant to a Withdrawal Notice for use in accordance with the terms hereof and, for the avoidance of doubt, the Approved Budget or return thereof to the Lenders upon the occurrence of the Maturity Date.

"**Master Agreement**" shall have the meaning provided in the definition of the term "Hedge Agreement."

"**Material Adverse Effect**" shall mean a material adverse effect on (a) the business, assets, operations, properties, or condition (financial or otherwise) of the Parent and its Subsidiaries, taken as a whole (excluding (i) any matters publicly disclosed in writing or disclosed to the Administrative Agent and the Lenders in writing prior to the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, (ii) any matters disclosed in the schedules hereto, (iii) any matters disclosed in any first day pleadings or declarations and (iv) the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, the events and conditions related and/or leading up thereto and the effects thereof and any action required to be taken

under the Credit Documents or under the DIP Order or the Canadian DIP Recognition Order), (b) the ability of the Credit Parties, taken as a whole, to perform any of its obligations under this Agreement or any of the other Credit Documents, (c) the Collateral (taken as a whole) or the Collateral Agent's Liens (on behalf of itself and the other Secured Parties) (taken as a whole) or (d) the rights of, benefits available to, or remedies of the Agents, the Escrow Agent or the Lenders under any of the Credit Documents.

"**Maturity Date**" shall mean the earliest to occur of (a) the date that is three months after the Petition Date; provided that by written consent, Required Lenders may extend such maturity date to that date that is four months after the Petition Date, (b) the date on which the Obligations become due and payable pursuant to this Agreement, whether by acceleration or otherwise, (c) the effective date of a Chapter 11 Plan for the Debtors, (d) the date of consummation of a sale of all or substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code, (e) the first Business Day on which the Interim Order or the Canadian Supplemental Order expires by its terms, unless the Final Order or the Canadian Final Order, as applicable, has been entered and become effective prior thereto, (f) conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or any Credit Party shall file a motion or other pleading seeking the conversion of the Chapter 11 Cases to Chapter 7 of the Bankruptcy Code unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), (g) proceedings under or pursuant to the BIA have been commenced in respect of Skillsoft Canada, Ltd. unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from either of the Specified Lender Advisors), (h) dismissal or termination of any of the Chapter 11 Cases or the Canadian Recognition Proceeding, unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), and (i) the Final Order or the Canadian Final Order (once entered) is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders) (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Maximum Non-Debtor Investment Cap**" shall mean $8,000,000.

"**Maximum Withdrawal Amount**" shall mean (i) from the Funding Date until the entry of the Final Order, $30,000,000 and (ii) thereafter, all remaining amounts held in the Loan Proceeds Account; provided that the maximum amount of any requested Withdrawal shall not exceed the amount that would cause Actual Liquidity to exceed $30,000,000.

"**Moody's**" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"**Mortgage**" shall mean a mortgage, deed of trust, deed to secure debt, trust deed, or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower, together with such terms and provisions as may be required by local laws, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

"**Mortgaged Property**" shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party, and each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.11 and 9.14.

"**Multiemployer Plan**" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which any Credit Party or ERISA Affiliate makes or is obligated to make contributions, or during the five preceding calendar years, has made or been obligated to make contributions.

"**Net Cash Proceeds**" shall mean, with respect to any Prepayment Event, (i) the cash proceeds (including payments from time to time in respect of installment obligations, if applicable, but only as and when received) received by or on behalf of any Credit Party in respect of a Prepayment Event (including (x) in the case of a casualty, insurance proceeds and (y) in the case of a condemnation or similar event, condemnation awards and similar payments), as the case may be, *less* (ii) the sum of:

(a) the amount, if any, of all taxes (including in connection with any repatriation of funds) paid or reasonably estimated to be payable by any Credit Party in connection with such Prepayment Event,

(b) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (a) above) (1) directly attributable to the assets that are the subject of such Prepayment Event and (2) retained by any Credit Party; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(c) the amount of any Indebtedness (other than under or pursuant to the Pre-Petition Credit Documents or any other Indebtedness outstanding as of the Petition Date) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(d) in the case of any Casualty Event, the amount of any proceeds that the Parent or any Subsidiary has reinvested in the business of the Parent or such Subsidiary solely in order to replace the property affected by such Casualty Event (the "**Deferred Net Cash Proceeds**"); provided that any portion of the Deferred Net Cash Proceeds that has not been so reinvested within 30 days after receipt thereof (or such longer date as the Required Lenders may agree in their sole discretion (which agreement may be communicated via email by any Specified Lender Advisor)) (the "**Reinvestment Period**") shall (1) be deemed to be Net Cash Proceeds of a Casualty Event on the first day after the Reinvestment Period ends and (2) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i),

(e) [reserved],

(f) in the case of any Asset Sale Prepayment Event, any funded escrow established pursuant to the documents evidencing any such sale or disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such sale or disposition; provided that the amount of any subsequent reduction of such escrow (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction solely to the extent that any Credit Party and/or any of its Subsidiaries receives cash in an amount equal to the amount of such reduction, and

(g) all reasonable and documented fees and out of pocket expenses paid by any Credit Party to third parties in connection with such Prepayment Event (for the avoidance of doubt, including, attorney's fees, investment banking fees, survey costs, title insurance premiums, and

related search and recording charges, transfer taxes, deed or mortgage recording taxes, underwriting discounts and commissions, other customary expenses, and brokerage, consultant, accountant, and other customary fees),

in each case only to the extent not already deducted in arriving at the amount referred to in clause (i) above.

"**Non-Bank Tax Certificate**" shall have the meaning provided in Section 5.4(e)(ii)(B)(3).

"**Non-Defaulting Lender**" shall mean and include each Lender other than a Defaulting Lender.

"**Non-U.S. Lender**" shall mean any Lender that is not a U.S. Person.

"**Notice of Borrowing**" shall have the meaning provided in Section 2.3(a).

"**Notice of Conversion**" shall have the meaning provided in Section 2.6(a).

"**Obligations**" shall mean all advances to, and debts, liabilities, obligations, covenants, and duties of, any Credit Party arising under any Credit Document or otherwise with respect to Loans, in each case, entered into with any Credit Party or any of its Subsidiaries, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy, examinership or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities, and other amounts payable by any Credit Party under any Credit Document.

"**OFAC Regulations**" shall have the meaning provided in Section 8.20(b).

"**Other Taxes**" shall mean all present or future stamp, registration, court or documentary Taxes or any other excise, intangible, mortgage recording, filing or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include (i) any Taxes that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("**Assignment Taxes**") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower or (ii) Excluded Taxes.

"**Overnight Rate**" shall mean, for any day, the Federal Funds Effective Rate.

"**Parent**" shall have the meaning provided in the preamble to this Agreement.

"**Parent Entity**" shall mean any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of the Parent.

"**Participant**" shall have the meaning provided in Section 13.6(c)(i).

"**Participant Register**" shall have the meaning provided in Section 13.6(c)(ii).

"**Participating Member State**" shall mean any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

"**Patriot Act**" shall have the meaning provided in Section 13.18.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"**Pension Plan**" shall mean any employee benefit pension plan (as defined in Section 3(2) of ERISA, but excluding any Multiemployer Plan) in respect of which any Credit Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Permitted Holders**" shall mean each of the Initial Investors and their respective Affiliates (other than any operating portfolio company of an Initial Investor) and members of management of the Parent (or its direct or indirect parent) who are holders of Equity Interests of the Parent (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates (other than any portfolio company of an Initial Investor) and such members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the total outstanding Equity Interests of the Parent or any other direct or indirect parent company of the Parent.

"**Permitted Investments**" shall mean:

(i) any Investment set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor); provided that any loans or advances to non-Debtor Subsidiaries shall not exceed the Maximum Non-Debtor Investment Cap;

(ii) any Investment in cash, Cash Equivalents, or Investment Grade Securities at the time such Investment is made;

(iii) investments (i) by any Credit Party in their respective Subsidiaries that are Credit Parties and (ii) by any Subsidiary of the Parent that is not a Credit Party in any of its Subsidiaries that is not a Credit Party;

(iv) loans or advances made (i) by any Credit Party to another Credit Party or (ii) made by any Subsidiary that is not a Credit Party to a Credit Party or any other Subsidiary that is not a Credit Party; provided that any such loans and advances made by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

(v) any Investment existing or contemplated on the Closing Date and, in each case, listed on Schedule 10.5;

(vi) Investments relating to any Receivables Subsidiary that, in the good faith determination of the board of directors of the Parent, are necessary or advisable to effect a Receivables Facility or any repurchases in connection therewith; provided that to the extent any Investments are made pursuant to this clause (vi), the amount of such Investments, together with the cumulative amount of all Investments made pursuant to this clause (vi), will be included in the report delivered pursuant to Section 9.18(c) that immediately follows the making of each such Investment;

(vii) investments necessary to effectuate the transactions contemplated by the RSA;

(viii) [reserved];

(ix) Investments consisting of extensions of trade credit in the ordinary course of business set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor);

(x) any Investment in an aggregate amount not to exceed $2,000,000; and

(xi) investments constituting deposits described in clause (i) of the definition of the term "Permitted Liens".

"**Permitted Liens**" shall mean, with respect to any Person:

(i) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness), or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent or deposits made to secure obligations arising from contractual or warranty refunds, in each case incurred in the ordinary course of business;

(ii) Liens imposed by a Requirement of Law, such as carriers', warehousemen's, materialmen's, repairmen's, builders' and mechanics' Liens, arising in the ordinary course of business, in each case for sums not yet overdue for a period of more than 60 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(iii) Liens imposed by a Requirement of Law for taxes, assessments, or other governmental charges not yet overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP or for property taxes on property that the Borrower or one of its Subsidiaries, has determined in its good faith to abandon as no longer economically practical in its business or commercially desirable to maintain if the sole recourse for such tax assessment, charge, levy, or claim is to such property or are not required to be paid pursuant to Section 8.11 or the nonpayment of which is permitted or required under the Bankruptcy Code or Canadian Bankruptcy and Insolvency Law;

(iv) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal, or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) deposits securing obligations arising after the Petition Date required under or imposed by the Bankruptcy Code;

(vi) Liens securing Indebtedness permitted to be outstanding pursuant to clauses (a) or (b), (f) or (g) of Section 10.1;

(vii) Liens set forth on Schedule 10.2;

(viii) the Carve Out, the CCAA Administration Charge and the CCAA DIP Lenders' Charge;

(ix) Liens securing cash management services in the ordinary course of business and consistent with past practices;

(x) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment, or storage of such inventory or other goods;

(xi) leases, subleases, licenses, or sublicenses (including of Intellectual Property) granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Parent or any Subsidiary, are consistent with past practices and do not secure any Indebtedness to the extent in existence on the Closing Date or approved by the Required Lenders prior to the existence of such lease, sublease, license or sublicense (which approval may be communicated via email by any Specified Lender Advisor);

(xii) Liens in favor of the Parent, the Borrower, or any other Guarantor;

(xiii) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(xiv) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business and in accordance with the Approved Budget;

(xv) non-exclusive licenses of Intellectual Property granted in the ordinary course of business and in existence on the Closing Date;

(xvi) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.1(f) or Section 11.1(k);

(xvii) Liens in favor of customs and revenue authorities arising by any Requirement of Law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(xviii) Liens, in accordance with the Interim Order or Final Order, as applicable, (a) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (b) [reserved], and (c) in favor of banking or other financial institutions or other electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;

(xix) Liens granted by the Interim Order or Final Order, as applicable, and created pursuant to the Credit Documents to secure the Obligations;

(xx) Liens permitted under the Cash Management Order;

(xxi) with respect to any Foreign Subsidiary, other Liens and privileges arising mandatorily by any Requirement of Law; and

(xxii) other Liens securing obligations which do not exceed $100,000.

For purposes of this definition, the term Indebtedness shall be deemed to include interest on such Indebtedness.

"**Permitted Variance**" shall mean, commencing with the applicable Permitted Variance Commencement Date, (a) in respect of Actual Operating Disbursement Amounts, 15% for each Variance Testing Period and (b) in respect of Actual Cash Receipts, 15% for each Variance Testing Period.

"**Permitted Variance Commencement Date**" shall mean (i) with respect to Actual Operating Disbursement Amounts, the third full calendar week following the Petition Date and (ii) with respect to Actual Cash Receipts, the third full calendar week following the Petition Date.

"**Person**" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust, or other enterprise or any Governmental Authority.

"**Petition Date**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Plan**" shall mean, other than any Multiemployer Plan, any employee benefit plan (as defined in Section 3(3) of ERISA), including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be reasonably likely to be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Platform**" shall have the meaning provided in Section 13.17(a).

"**PPSA**" shall mean the Personal Property Security Act (New Brunswick), as amended from time to time, together with all regulations made thereunder; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by (i) a Personal Property Security Act as in effect in a Canadian jurisdiction other than New Brunswick or Quebec, or (ii) the Civil Code of Quebec, then "PPSA" shall mean the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable.

"**Pre-Petition**" shall mean the time period ending immediately prior to the filing of the Chapter 11 Cases.

"**Pre-Petition Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Collateral**" shall mean collectively, the "Collateral" as defined in the Pre-Petition First Lien Credit Agreement and the "Collateral" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Credit Agreements**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Credit Documents**" shall mean collectively, the "Credit Documents" as defined in the Pre-Petition First Lien Credit Agreements and the "Credit Documents" as defined in the Pre-Petition Second Lien Credit Agreements.

"**Pre-Petition First Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition First Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Indebtedness**" has the meaning assigned to such term in Section 10.5(c).

"**Pre-Petition Lenders**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Obligations**" shall mean collectively, the "Obligations" as defined in the Pre-Petition First Lien Credit Agreement and the "Obligations" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Second Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Second Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Prepack Scheduling Motion**" shall mean a motion filed by the Borrower with the Bankruptcy Court seeking entry of an order of the Bankruptcy Court scheduling a combined hearing with respect to the confirmation of the Chapter 11 Plan and the approval of the Chapter 11 Plan Disclosure Statement, in form and substance reasonably satisfactory to Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepack Scheduling Order**" shall mean an order by the Bankruptcy Court granting the Prepack Scheduling Motion, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepayment Event**" shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event or Casualty Event.

"**Prohibited Transaction**" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"**Qualified PECs**" of any Person shall mean the yield bearing preferred equity certificates, yield free preferred equity certificates or other preferred equity certificates issued by any Credit Party (other than the Parent) to the Parent prior to the Closing Date and any other substantially similar preferred equity certificates.

"**Qualified Stock**" of any Person shall mean Capital Stock of such Person other than Disqualified Stock of such Person; provided that Qualified PECs shall constitute Qualified Stock.

"**Real Estate**" shall have the meaning provided in Section 9.1(e).

"**Receivables Facility**" shall mean the Credit Agreement (and related transaction documents) dated as of December 20, 2018 among Skillsoft Receivables Financing LLC, as borrower, the lenders from time to time party thereto and CIT Bank, N.A., as administrative agent and collateral agent, as such facility may be amended, restated, supplement or otherwise modified as of the Petition Date and as may be further amended, restated, supplemented or otherwise modified from time to time in a manner reasonably acceptable to the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor).

"**Receivables Subsidiary**" shall mean any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto or another Person formed for the purposes of engaging in a Receivables Facility in which a Credit Party or any of its Subsidiary makes an Investment and to which a Credit Party or any of its Subsidiary transfers accounts receivables and related assets. On the Closing Date, Skillsoft Receivables Financing LLC is the only Receivables Subsidiary.

"**Register**" shall have the meaning provided in Section 13.6(b)(iv).

"**Regulation T**" shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation U**" shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation X**" shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Reinvestment Period**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Related Fund**" shall mean, with respect to any Lender that is a Fund, any other Fund that is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of such entity that administers, advises or manages such Lender.

"**Related Parties**" shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"**Release**" shall mean any release, spill, emission, discharge, disposal, escaping, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the environment.

"**Remedies Notice Period**" shall have the meaning assigned to such term in the DIP Order.

"**Reorganization**" shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"**Reportable Event**" shall mean any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code), other than those events as to which notice is waived pursuant to DOL Reg. § 4043.

"**Required Lenders**" shall mean, at any date, Non-Defaulting Lenders having or holding 50.1% of the sum of (a) the Total Term Loan Commitment less the Term Loan Commitments of all Defaulting Lenders at such date and (b) the outstanding principal amount of the Term Loans (excluding Term Loans held by Defaulting Lenders) at such date; provided that Term Loan Commitments held by Affiliated Institutional Lenders shall not constitute more than 49.9% of the Term Loan Commitments in any calculation of the Required Lenders for the purpose of waivers or amendments under this Agreement.

"**Required Milestones**" shall mean the "Milestones" set forth in Section 9.21 of this Agreement and any "Milestones", or such similar term, as defined in the DIP Order or the RSA, as applicable.

"**Requirement of Law**" shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule, or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"**Resignation Effective Date**" shall have the meaning provided in Section 12.9(a).

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Restricted Investment**" shall mean an Investment other than a Permitted Investment.

"**Restricted Payment**" shall have the meaning provided in Section 10.5.

"**RSA**" shall mean the Restructuring Support Agreement dated as of June 12, 2020.

"**RSA Termination Event**" shall mean an event described under Section 5 of the RSA which with the passage of time or the taking of action thereunder would result in the termination of the RSA.

"**S&P**" shall mean Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"**Sale Leaseback**" shall mean any arrangement with any Person providing for the leasing by the Parent or any Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by any Credit Party or any of its Subsidiaries to such Person in contemplation of such leasing.

"**Sanction(s)**" shall mean any international economic sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"**SEC**" shall mean the Securities and Exchange Commission or any successor thereto.

"**Secured Parties**" shall mean the Administrative Agent, the Collateral Agent, the Escrow Agent and each Lender, in each case with respect to the DIP Facility and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the DIP Facility or the Collateral Agent with respect to matters relating to any Security Document.

"**Security Documents**" shall mean, collectively, the DIP Order, the Canadian DIP Recognition Order, the U.S. Pledge Agreement, the Foreign Pledge Agreements, the Irish Security Documents, the U.S. Security Agreement, the Foreign Security Agreements, the Mortgages, and each other security agreement or other instrument or document executed and delivered pursuant to Sections 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure the Obligations or to govern the lien priorities of the holders of Liens on the Collateral.

"**Specified Lender Advisors**" shall mean (i) Gibson, Dunn & Crutcher LLP, as legal counsel, (ii) Greenhill & Co., Inc., as financial advisor and (iii) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders and/or the Required Lenders, in each case, taken as a whole.

"**Sponsor**" shall mean any of Charterhouse and its Affiliates and funds managed or advised by Charterhouse or its Affiliates but excluding operating portfolio companies of any of the foregoing.

"**Spot Rate**" for any currency shall mean the rate determined by the Administrative Agent consistent with its policies and procedures for obtaining a spot rate for such currency with another currency.

"**SPV**" shall have the meaning provided in Section 13.6(g).

"**Stock Equivalents**" shall mean all securities convertible into or exchangeable for Capital Stock and all warrants, options, or other rights to purchase or subscribe for any Capital Stock, whether or not presently convertible, exchangeable, or exercisable.

"**Subsidiary**" of any Person shall mean and include (i) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Capital Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (ii) any limited liability company, partnership, association, joint venture, or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time or (iii) in the case of any Credit Party incorporated in Ireland, any subsidiary of that Credit Party within the meaning of Sections 7 and 8 of the Companies Act 2014 (as amended) of Ireland. Unless otherwise expressly provided, all references herein to a Subsidiary shall mean a Subsidiary of the Parent.

"**Successor Case**" shall mean (i) with respect to the Chapter 11 Cases, any subsequent proceedings under Chapter 7 of the Bankruptcy Code, and (ii) with respect to the Canadian Recognition Proceeding, any subsequent proceedings under Canadian Bankruptcy and Insolvency Law.

"**Taxes**" shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings (including backup withholding), fees, or other similar charges imposed by any Governmental Authority and any interest, fines, penalties, or additions to tax with respect to the foregoing.

"**Term Loan Commitment**" shall mean, in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(b) under the Caption "Term Loan Commitment" as such Lender's Term Loan Commitment. The aggregate amount of the Term Loan Commitments as of the Closing Date is $60,000,000.

"**Term Loans**" shall have the meaning set forth in the recitals.

"**Title Policy**" shall have the meaning provided in Section 9.14(c).

"**Total Credit Exposure**" shall mean, at any date, the sum, without duplication, of (i) [reserved], (ii) the Total Term Loan Commitment at such date, and (iii) without duplication of clause (ii), the aggregate outstanding principal amount of all Term Loans at such date.

"**Total Term Loan Commitment**" shall mean the sum of the Term Loan Commitments of all Lenders.

"**Transaction Expenses**" shall mean any fees, costs, or expenses incurred or paid by any Parent Entity, the Parent, the Borrower, or any of their respective Affiliates in connection with the Transactions, this Agreement, the other Credit Documents, and the transactions contemplated hereby and thereby.

"**Transactions**" shall mean, collectively, the transactions contemplated by this Agreement, the Chapter 11 Cases, the Canadian Recognition Proceeding, the consummation of any other transactions in connection with the foregoing (including the payment of the fees and expenses incurred in connection with any of the foregoing, including to fund any original issue discount or upfront fees).

"**Transferee**" shall have the meaning provided in Section 13.6(e).

"**Type**" shall mean as to any Term Loan, its nature as an ABR Loan or a Eurocurrency Loan.

"**UCC**" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of any provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"**Unrestricted Cash on Hand**" shall mean all cash of any Subsidiary other than the Actual Cash on Hand.

"**U.S.**" and "**United States**" shall mean the United States of America.

"**U.S. Credit Parties**" shall mean the Borrower and any other U.S. Subsidiaries that are Guarantors.

"**U.S. Lender**" shall have the meaning provided in Section 5.4(e)(ii)(A).

"**U.S. Person**" shall mean any Person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**U.S. Pledge Agreement**" shall mean the Debtor-in-Possession Pledge Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Security Agreement**" shall mean the Debtor-in-Possession Security Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Subsidiary**" shall mean any Subsidiary of the Parent that is organized under the laws of the United States, any state thereof, or the District of Columbia.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Variance Testing Period**" means, as applicable, the cumulative period of four weeks ending on July 10, 2020 and every other calendar week thereafter.

"**Withdrawal**" shall mean a withdrawal from the Loan Proceeds Account made in accordance with Section 7.

"**Withdrawal Date**" shall mean the date of any Withdrawal.

"**Withdrawal Liability**" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"**Withdrawal Notice**" shall mean a notice substantially in the form attached hereto as Exhibit C to be delivered by the Borrower to the Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Loan Proceeds Account, signed by a Financial Officer of the Borrower.

"**Withholding Agent**" shall mean any Credit Party, the Administrative Agent and, in the case of any U.S. federal withholding Tax, any other applicable withholding agent.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised

under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein", "hereto", "hereof", and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Section, Exhibit, and Schedule references are to the Credit Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(h) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(i) All references to "knowledge" or "awareness" of any Credit Party or any Subsidiary thereof means the actual knowledge of an Authorized Officer of such Credit Party or such Subsidiary.

1.3 Accounting Terms.

(a) Except as expressly provided herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a consistent manner. If at any time any change in GAAP would affect the computation of any financial ratio set forth in any Credit Document or any financial definition of any other provision of any Credit Document, and the Borrower or the Required Lenders shall so request, the Administrative Agent, the Required Lenders (which request may be communicated via email by any Specified Lender Advisor) and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to approval by the Required Lenders and the Borrower); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP before such change, and Borrower shall provide to the

Administrative Agent and the Lenders within five days after delivery of each certificate or financial report required hereunder that is affected thereby a written statement of a Financial Officer of the Borrower setting forth in reasonable detail the differences that would have resulted if such financial statements had been prepared without giving effect to such change. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Parent or any Subsidiary at "fair value", as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any valuation of Indebtedness below its full stated principal amount as a result of application of Financial Accounting Standards Board Accounting Standards Update No. 2015-03, it being agreed that such Indebtedness shall at all times be valued at the full stated principal amount thereof. Notwithstanding the foregoing, all liabilities under or in respect of any lease (whether now outstanding or at any time entered into or incurred) that, under GAAP as in effect on the Closing Date, would be accrued as rental and lease expense and would not constitute a capital lease obligation in accordance with GAAP as in effect on the Closing Date shall continue to not constitute a capital lease obligation, in each case, for purposes of the covenants set forth herein and all defined terms as used therein.

1.4 [Reserved].

1.5 References to Agreements Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents), and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases, but only to the extent that such amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting such Requirement of Law.

1.6 [Reserved].

1.7 Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission, or any other matter related to the rates in the definition of Eurocurrency Rate or with respect to any comparable or successor rate thereto.

1.8 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, Contractual Requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Section 9.9 or any clause or subsection of Sections 10.1, 10.2, 10.3, 10.4, 10.5 or 0 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

1.12 [Reserved].

1.13 [Reserved].

1.14 [Reserved].

1.15 Effectuation of Transactions. All references herein to the Parent and the other Subsidiaries shall be deemed to be references to such Persons, and all the representations and warranties of the Credit Parties contained in this Agreement and the other Credit Documents shall be deemed made, in each case, after giving effect to the Transactions to occur on the Closing Date, unless the context otherwise requires.

1.16 [Reserved].

1.17 [Reserved].

Notwithstanding anything else in the Credit Documents, any reference in any of the Credit Documents to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Lien created by any of the Credit Documents to any Permitted Lien.

Section 2. Amount and Terms of Credit.

2.1 Commitments. Subject to and upon the terms and conditions herein set forth and in the DIP Order and in accordance therewith, each Lender severally, and not jointly, agrees to make the Term Loans to the Borrower in an amount equal to such Lender's Commitment in a single borrowing within three Business Days of the date of the entry of the Interim Order (such date, the "**Funding Date**"). Each Lender's Commitment shall automatically be reduced by the amount of Loans funded in respect thereof on the Funding Date; provided that, notwithstanding anything herein to the contrary, all such Commitments shall terminate automatically and be reduced to zero on June [●], 2020 to the extent that the Funding Date has not occurred on or prior to such date (or such later date as agreed to by the Borrower and the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors)). Such Term Loans (i) will at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurocurrency Loans; provided that all Term Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term Loans of the same Type, (ii) may be repaid or prepaid (without premium or penalty) in accordance with the provisions hereof, but once repaid or prepaid, may not be reborrowed, (iii) shall not exceed for any such Lender the Term Loan Commitment of such Lender, (iv) shall not exceed in the aggregate the Total Term Loan Commitments and (v) shall be funded into the Loan Proceeds Account

on the Funding Date in accordance with Section 2.4(d). The Term Loans shall be available in Dollars and not later than the Maturity Date, all then unpaid Term Loans shall be repaid in full in Dollars.

2.2 [Reserved].

2.3 Notice of Borrowing.

(a) The Borrower shall give the Administrative Agent at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least one Business Days' prior written notice in the case of a Borrowing of Term Loans to be made on the Closing Date or three (3) Business Days in the case of a Borrowing of Term Loans to be made after the Closing Date (which notice shall be delivered electronically in .pdf or other electronic imaging format acceptable to the Administrative Agent). Such notice (a "**Notice of Borrowing**") shall specify (i) the aggregate principal amount of the Term Loans to be made, (ii) the date of the Borrowing, and (iii) whether the Term Loans shall consist of ABR Loans and/or Eurocurrency Loans and, if the Term Loans are to include Eurocurrency Loans, the Interest Period to be initially applicable thereto (which shall be one month). If no election as to the Type of Borrowing is specified in any such notice, then the requested Borrowing shall be a Eurocurrency Borrowing. If no Interest Period with respect to any Borrowing of Eurocurrency Loans is specified in any such notice, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.3(a) (and the contents thereof), and of each Lender's pro rata share of the requested Borrowing.

2.4 Disbursement of Funds.

(a) No later than 1:00 p.m. (New York City time) on the Funding Date, each Lender shall make available its pro rata portion, if any, of the Borrowing requested to be made on such date in the manner provided below; provided that on the Funding Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrower, and the Administrative Agent for the purpose of consummating the Transactions.

(b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments, and in immediately available funds, to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will deposit the aggregate amounts so made available into the Loan Proceeds Account in Dollars in accordance with Section 2.4(d). Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in the applicable currency. The Administrative Agent shall also be entitled to recover from such Lender or any Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

(d) Upon receipt of all requested funds pursuant to Section 2.4(b), the Administrative Agent will promptly (i) in accordance with the Flow of Funds Statement, (I) remit to the Borrower from such amounts, all fees and expenses of counsel of the Agents, the Escrow Agent and the Specified Lender Advisors (which the Borrower shall immediately remit by wire transfer such amounts to such counsel and advisors in accordance with the Flow of Funds Statement) and (II) deduct and apply all fees payable to the Agents and the Escrow Agent on the Funding Date in accordance with the Flow of Funds Statement (including for purposes of clause (I) and (II) above in connection with any fronting arrangement), (ii) in accordance with the Flow of Funds Statement, and subject to Sections 6 and Section 7, remit to the Borrower from such amounts the amount requested by the Borrower in the Withdrawal Notice, and (iii) remit the remaining amounts by promptly crediting such amount, in like funds, to the Loan Proceeds Account. The Loans shall be deemed made by the Lenders when so remitted and applied and so deposited to such account. For the avoidance of doubt, the full amount of all Loans will begin to accrue interest on the Funding Date.

(e) For the avoidance of doubt, the Administrative Agent shall have no Commitments to make Loans in its capacity as the Administrative Agent and the Administrative Agent's requirement to remit the Loan proceeds received from the Lenders in accordance with the provisions hereof shall be limited to the funds that it receives from the Lenders.

2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Maturity Date, the then outstanding Term Loans in Dollars.

(b) [Reserved].

(c) [Reserved].

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.6(a), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is a Term Loan, the Type of each Loan made, the currency in which it is made, the name of the Borrower and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that in the event of any inconsistency between the Register and any such account or subaccount, the Register shall govern, provided, further, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any

manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

(g) The Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Closing Date, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit G, as applicable, for the sole purpose of evidencing the Loans owing to such Lender. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 13.6) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

2.6 Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 (or the Dollar Equivalent thereof) of the outstanding principal amount of Term Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any Eurocurrency Loans as Eurocurrency Loans for an additional Interest Period; provided that (i) no partial conversion of Eurocurrency Loans shall be permitted, (ii) ABR Loans may not be converted into Eurocurrency Loans if an Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) Eurocurrency Loans may not be continued as Eurocurrency Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion shall be effected by the Borrower by giving the Administrative Agent notice at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least (i) three Business Days prior, in the case of a conversion to Eurocurrency Loans (other than in the case of a notice delivered on the Funding Date, which shall be deemed to be effective on the Funding Date), or (ii) three Business Days prior in the case of a conversion into ABR Loans (each such notice, a "**Notice of Conversion**" substantially in the form of Exhibit K) specifying the Loans to be so converted, the Type of Loans to be converted into and, if such Loans are to be converted into a Eurocurrency Loans, the Interest Period to be initially applicable thereto will be one month's duration. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans. Until the Maturity Date, any Eurocurrency Loans will be continued as Eurocurrency Loans with an Interest Period of one month's duration.

(b) If any Event of Default is in existence at the time of any proposed continuation of any Eurocurrency Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such Eurocurrency Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of Eurocurrency Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrower shall be deemed to have elected to convert such Borrowing of Eurocurrency Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.

2.7 Pro Rata Borrowings. Each Borrowing of Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Term Loan Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to

be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation, under any Credit Document.

2.8 Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for ABR Loans *plus* the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each Eurocurrency Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for Eurocurrency Loans *plus* the relevant Eurocurrency Rate.

(c) Notwithstanding the foregoing, unless otherwise elected by the Required Lenders (which election not to impose the default interest rate set forth in this Section 2.8(c) may be communicated via an email from any of the Specified Lender Advisors), upon the occurrence and during the continuation of an Event of Default, Loans and all other Obligations overdue hereunder shall bear interest, after as well as before judgment, at a rate per annum equal to 2% plus the rate otherwise applicable thereto.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in the same currency in which the Loan is denominated; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, monthly in arrears on the last Business Day of each month of the Borrower, (ii) in respect of each Eurocurrency Loan, on the last day of each Interest Period applicable thereto, and (iii) in respect of each Loan, (A) on any prepayment in respect thereof, (B) at maturity (whether by acceleration or otherwise), and (C) after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of Eurocurrency Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion in respect of the making of, or conversion into or continuation as, a Borrowing of Eurocurrency Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice of the Interest Period applicable to such Borrowing, which Interest Period shall be a one month period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of Eurocurrency Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of Eurocurrency Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period in respect of a Eurocurrency Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day; and

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any Eurocurrency Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

2.10 Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or the Required Lenders and (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Eurocurrency Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such Eurocurrency Loan are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the applicable interbank market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurocurrency Rate; or

(ii) at any time, that such Lenders shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Eurocurrency Loans (including any increased costs or reductions attributable to Taxes, other than any increase or reduction attributable to Indemnified Taxes or Other Taxes) because of any Change in Law; or

(iii) at any time, that the making or continuance of any Eurocurrency Loan has become unlawful by compliance by such Lenders in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the applicable interbank market;

(such Loans, "**Impacted Loans**"), then, and in any such event, such Required Lenders (or the Administrative Agent or the Required Lenders, as applicable, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower, and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, Eurocurrency Loans shall no longer be available until such time as the Administrative Agent or the Required Lenders, as applicable, notifies the Borrower, the Administrative Agent (if applicable) and the Lenders that the circumstances giving rise to such notice by the Administrative Agent or the Required Lenders, as applicable, no longer exist (which notice shall be given at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrower with respect to Eurocurrency Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the

case of clause (ii) above, the Borrower shall pay to such Lenders, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Required Lenders, in their reasonable discretion shall determine) as shall be required to compensate such Lenders for such actual increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lenders, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lenders shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto), and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) promptly and, in any event, within the time period required by law.

Notwithstanding the foregoing, if the Administrative Agent or the Required Lenders, as applicable, has made the determination described in Section 2.10(a)(i)(x), the Required Lenders, in consultation with the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent or the Required Lenders, as applicable, revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Required Lenders or the affected Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(b) At any time that any Eurocurrency Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a Eurocurrency Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if a Notice of Borrowing or Notice of Conversion with respect to the affected Eurocurrency Loan has been submitted pursuant to Section 2.3 but the affected Eurocurrency Loan has not been funded or continued, cancel such requested Borrowing by giving the Administrative Agent written notice thereof on the same date that the Borrower was notified by Lenders pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected Eurocurrency Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such Eurocurrency Loan into an ABR Loan; provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy or liquidity of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy or liquidity occurring after the Closing Date, has or would have the effect of reducing the actual rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such actual additional amount or amounts as will compensate such Lender or its parent for such actual reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date or to the extent such Lender is not imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Borrower hereunder) under comparable syndicated credit facilities similar to the DIP Facility. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written

notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) With respect to any alternative interest rate selected by the Required Lenders pursuant to this Section 2.10: (i) no Agent or the Escrow Agent shall be bound to follow or agree to any modification to this Agreement or any other Credit Document or any such rate that would increase or materially change or affect the duties, obligations or liabilities of any Agent or the Escrow Agent (including without limitation the imposition or expansion of discretionary authority), or reduce, eliminate, limit or otherwise change any right, privilege or protection of any Agent or the Escrow Agent, or would otherwise materially and adversely affect any Agent or the Escrow Agent, in each case in its reasonable judgment, without its express written consent (such consent not to be unreasonably withheld) and (ii) any such alternative interest rate shall be administratively feasible for the Administrative Agent.

2.11 Compensation. If (a) any payment of principal of any Eurocurrency Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Eurocurrency Loan as a result of a payment or conversion pursuant to Sections 2.5, 2.6, 2.10, 5.1, 5.2, or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of Eurocurrency Loans is not made as a result of a withdrawn Notice of Borrowing or a failure to satisfy borrowing conditions, (c) any ABR Loan is not converted into a Eurocurrency Loan as a result of a withdrawn Notice of Conversion, (d) any Eurocurrency Loan is not continued as a Eurocurrency Loan, as the case may be, as a result of a withdrawn Notice of Conversion or (e) any prepayment of principal of any Eurocurrency Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), promptly pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Eurocurrency Loan. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender as specified in this Section 2.11 and setting forth in reasonable detail the manner in which such amount or amounts were determined shall be delivered to the Borrower and shall be conclusive, absent manifest error.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or other material economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.10 or 5.4.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Sections 2.10 or 2.11 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Sections 2.10 or 2.11, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of notice to the Borrower; provided

that, if the circumstances giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

2.14 [Reserved].

2.15 [Reserved]

2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Requirement of Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.9 shall be applied at such time or times as follows: *first*, as may be determined by the Administrative Agent to the payment of any amounts owing by such Defaulting Lender to any Agent or the Escrow Agent hereunder; *second*, [reserved]; *third*, [reserved]; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) [reserved]; *sixth*, to the payment of any amounts owing to the Borrower, the Lenders as a result of any judgment of a court of competent jurisdiction obtained by the Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 4 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower notifies the Administrative Agent in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other

Lenders or take such other actions as may be necessary to cause the Term Loans to be held on a pro rata basis by the Lenders in accordance with their percentages of the Term Loan Commitments, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 3. [Reserved]

Section 4. Fees

4.1 Fees.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars, for the account of each Lender (in each case pro rata according to the respective Commitments of all such Lenders), a commitment fee (the "**Commitment Fee**") on the Funding Date equal to 3.00% of the aggregate principal amount of the Term Loans.

(b) The Borrower agrees to pay (i) to the Agents and the Lenders, as applicable, for their respective accounts, the fees and other amounts due in accordance with the terms of the Fee Letter in accordance with the applicable terms thereof and (ii) to the Escrow Agent the fees set forth in the fee letter referenced in the Escrow Agreement.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this Section 4.1, except as otherwise set forth in Section 2.16(a)(iii)(B).

Section 5. Payments

5.1 Voluntary Prepayments.

(a) The Borrower shall have the right to prepay Term Loans, in each case, without premium or penalty, in whole or in part from time to time on the following terms and conditions: (1) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice of the Borrower's intent to make such prepayment, the amount of such prepayment and (in the case of Eurocurrency Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 12:00 Noon (New York City time) (i) in the case of Eurocurrency Loans, three Business Days prior to the date of such prepayment, (ii) [reserved], (iii) in the case of ABR Loans, two Business Days prior to the date of such prepayment or (iv) [reserved], (2) each partial prepayment of (i) any Borrowing of Eurocurrency Loans shall be in a minimum amount of $5,000,000 (or the Dollar Equivalent thereof) and in multiples of $1,000,000 (or the Dollar Equivalent thereof) in excess thereof, (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $500,000 in excess thereof, and (iii) [reserved]; and (3) in the case of any prepayment of Eurocurrency Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrower shall, promptly after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required pursuant to Section 2.11.

5.2 Mandatory Prepayments.

(a) Term Loan Prepayments. Subject in all respects to the DIP Order, on each occasion that a

Prepayment Event occurs, the Borrower shall, within two Business Days after receipt of the Net Cash Proceeds of any Prepayment Event (or, in the case of Deferred Net Cash Proceeds, within two Business Days after the Reinvestment Period ends), prepay, in accordance with clause (c) below, Term Loans with an equivalent principal amount equal to 100% of the Net Cash Proceeds from such Prepayment Event, unless otherwise approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors). No prepayment pursuant to this Section 5.2(a) shall be required in respect of the sale or disposition of any Foreign Subsidiary's assets to the extent such prepayment would result in material adverse tax consequences (as reasonably determined by the Borrower in consultation with the Administrative Agent) or would be prohibited or restricted by applicable law.

(b) Reinvestment Period. Until the Reinvestment Period ends, the Parent or any Subsidiary shall apply the Net Cash Proceeds from such Casualty Event solely to reinvest in the business of the Parent or such Subsidiary in order to replace the property affected by such Casualty Event; provided that the Parent and the Subsidiaries will be deemed to have complied with this Section 5.2(b) if and to the extent that, within the Reinvestment Period after the Casualty Event that generated the Net Cash Proceeds, the Parent or such Subsidiary has reinvested such proceeds within the Reinvestment Period and, in the event any such proceeds are not reinvested within the Reinvestment Period, the Parent or such Subsidiary prepays the Loans in accordance with Section 5.2(a).

(c) Application to Repayment Amounts. Each prepayment required by Section 5.2(a) shall be allocated pro rata among the Loans based on the amounts due thereunder. With respect to each such prepayment, the Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 5.2(a) two Business Days after the date of realization or receipt of such Net Cash Proceeds. Each such notice shall be irrevocable, shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment, shall be substantially in the form of Exhibit D and which shall include a calculation of the amount of such prepayment to be applied to the Term Loans requesting that the Administrative Agent provide notice of such prepayment to each Lender.

5.3 Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto not later than 1:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such Loans are denominated and all other payments under each Credit Document shall, unless otherwise specified in such Credit Document, be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York City time) or, otherwise, on the next Business Day in the Administrative Agent's sole discretion) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day for purposes of calculating interest thereon. Except as otherwise provided herein, whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next

succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

(c) Pre-Default Allocation of Payments. At all times when Section 5.3(d) does not apply and except as otherwise expressly provided herein, monies to be applied to the Obligations and the Pre-Petition Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of the Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent in their capacity as such pursuant to any Credit Document, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(vii) *Last*, the balance, if any, to the Borrower or as otherwise required by law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category.

(d) Post-Default Allocation of Payments. Notwithstanding anything herein to the contrary, after the occurrence and during the continuation of an Event of Default, the Required Lenders may elect, in lieu of the allocation of payments set forth in Section 5.3(a), that monies to be applied to the Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall, to the extent elected by the Required Lenders (in writing to the Administrative Agent), be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent pursuant to any Credit Document in their capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of the Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to pay any other Obligations until paid in full;

(vii) *Seventh*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(viii) *Last*, the balance, if any, after Full Payment of the Obligations, to the Borrower or as otherwise required by any Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. The allocations set forth in this Section 5.3(d) may be changed by agreement among the Agents, the Escrow Agent and the Lenders without the consent of any Credit Party and are subject to Section 2.16 (regarding Defaulting Lenders); *provided* that, notwithstanding the foregoing, no amendment to Section 5.3(d) shall be permitted without the consent of the Borrower which would modify the priority of the Pre-Petition Obligations set forth therein. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. Appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Obligations otherwise set forth above in this Section 5.3(d). For the avoidance of doubt, nothing contained in this Agreement shall relieve or waive payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements.

(e) If, except as otherwise expressly provided herein (subject in all respects to the Carve Out and the CCAA Administration Charge), any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other similarly situated Lender, then the Lender receiving such

greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to any Credit Party or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(g) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in any order determined by the Administrative Agent in its discretion.

5.4 Net Payments.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes.

(ii) If any Credit Party, the Administrative Agent or any other applicable Withholding Agent shall be required by applicable law to withhold or deduct any Taxes from any payment, then (A) such Withholding Agent shall withhold or make such deductions as are reasonably determined by such Withholding Agent to be required by applicable law, (B) such Withholding Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after such required withholding or deductions have been made (including any such withholding or deductions applicable to additional sums payable under this Section 5.4) each Lender (or, in the case of a payment to the Administrative Agent for its own account,

the Administrative Agent) receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of clause (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or timely reimburse the Administrative Agent or any Lender for the payment of any Other Taxes.

(c) Tax Indemnifications. Without limiting the provisions of clause (a) or (b) above, the Borrower shall indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after demand therefor, for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority as provided in this Section 5.4, the Borrower shall deliver to the Administrative Agent and the Lenders the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders and Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to withholding Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) whenever a lapse of time or change in circumstances renders such documentation obsolete, expired or inaccurate in any respect and (iii) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent. Each such Lender shall also promptly notify in writing the Borrower and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

Notwithstanding anything to the contrary in this Section 5.4, no Lender or the Administrative Agent shall be required to deliver any documentation that it is not legally eligible to deliver.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person (a "**U.S. Lender**") shall deliver to the Borrower and the Administrative Agent executed copies of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:

(1) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(2) executed copies of Internal Revenue Service Form W-8ECI (or any successor form thereto);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit J-1, J-2, J-3 or J-4, as applicable, (a "**Non-Bank Tax Certificate**"), to the effect that such Non-U.S. Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and that no payments under any Credit Document are effectively connected with such Non-U.S. Lender's conduct of a United States trade or business and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor thereto);

(4) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), Internal Revenue Service Form W-8IMY (or any successor thereto), accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue service Form W-8BEN or W-8BEN-E and/or Internal Revenue Service Form W-9 (in each case, or any successor thereto), and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the portfolio interest exemption, a Non-Bank Tax Certificate of such beneficial owner(s)) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Tax Certificate(s) may be provided by the Non-U.S. Lender on behalf of the direct or indirect partner(s)); or

(5) executed copies of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

(C) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) On or before the date the Administrative Agent (or any successor thereto) becomes a party to this Agreement, such Administrative Agent shall provide to the Borrower two duly-signed properly completed copies of the documentation prescribed in clause (A) or (B) below, as applicable (together with any required attachments): (A) IRS Form W-9 or any successor thereto, or (B)(x) IRS Form W-8ECI, or any successor thereto with respect to payments, if any, received by the Administrative Agent for its own account, and (y) with respect to payments received on account of any Lender, executed copies of IRS Form W-8IMY (or any successor form) certifying that the Administrative Agent is either (a) a "qualified intermediary" or (b) a "U.S. branch" and that payment it receives for others are not effectively connected with the conduct of a trade or business in the United States, in each case certifying that the Administrative Agent is assuming primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the accounts of others, with the effect that the Borrower can make payments to the Administrative Agent without deduction or withholding of any Taxes imposed by the United States. At any time thereafter, the Administrative Agent shall update documentation previously provided (including, if applicable, any successor forms thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. The Administrative Agent shall also promptly notify the Borrower in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section 5.4, the Administrative Agent or such Lender (as applicable) shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Parties under this Section 5.4 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be,

shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the Administrative Agent or any Lender in a less favorable net after-Tax position than the Administrative Agent or any Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Credit Party or any other Person.

(g) If the Administrative Agent is a U.S. Person, it shall provide the Borrower with two duly completed original copies of Internal Revenue Service Form W-9. If the Administrative Agent is not a U.S. Person, it shall provide applicable Internal Revenue Service Form W-8 (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Lenders.

(h) [Reserved].

(i) Each party's obligations under this Section 5.4 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under the Credit Documents.

5.5 Computations of Interest and Fees.

(a) Except as provided in the next succeeding sentence, interest on Eurocurrency Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.

(c) For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 360-day or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or such other period of time, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment

to the maximum extent permitted by or consistent with applicable laws, rules, and regulations (the "**Maximum Rate**").

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8; provided that to the extent lawful, the interest or other amounts that would have been payable but were not payable as a result of the operation of this Section shall be cumulated and the interest payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.

Without limiting the generality of the foregoing, if any provision of this Agreement would oblige any Credit Party that is organized under the laws of Canada or any Province thereof to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

(i) first, by reducing the amount or rate of interest; and

(ii) thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

5.7 Super Priority Nature of Obligations and Collateral Agent's Liens; Payment of Obligations.

(a) The priority of the Collateral Agent's Liens on the Collateral, claims and other interests shall be as set forth in the DIP Order and the Canadian DIP Recognition Order (and, for the avoidance of doubt, are subject to the Carve Out).

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Credit Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without application to or order of the Bankruptcy Court or the Canadian Bankruptcy Court.

Section 6. Conditions Precedent.

6.1 Conditions Precedent to the Closing Date. The effectiveness of this Agreement and the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion and, with respect to any condition affecting the rights and duties of the Administrative Agent, the Administrative Agent, any which waiver by the Required Lenders, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Credit Documents. This Agreement and the other Credit Documents shall be satisfactory to the Required Lenders and delivered to the Administrative Agent and the Specified Lender Advisors and there shall have been delivered to the Administrative Agent and the Specified Lender Advisors a duly executed counterpart of this Agreement and each of the other Credit Documents by the applicable parties thereto (which may include telecopy transmission of a signed signature page).

(b) Orders. (i) The Bankruptcy Court shall have entered the Interim Order, no later than three (3) Business Days after the Petition Date, and such order shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent); (ii) the Administrative Agent and the Lenders shall have received drafts of the "first day" pleadings for the Chapter 11 Cases and all materials for the Canadian Recognition Proceeding, in each case, in form and substance satisfactory to the Administrative Agent and the Required Lenders, not later than a reasonable time in advance of the Petition Date for the Administrative Agent and the Required Lenders' counsel to review and analyze the same; (iii) all motions, orders (including the "first day" orders) and other documents to be filed with or submitted to the Bankruptcy Court on the Petition Date or the Canadian Bankruptcy Court on the CCAA Filing Date shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and (iv) (a) all "first day" orders shall have been approved and entered by the Bankruptcy Court except as otherwise agreed by the Required Lenders.

(c) Initial Approved Budget; Cash Flow Forecast. The Administrative Agent and the Specified Lender Advisors shall have received (i) the Initial Approved Budget and (ii) the initial Cash Flow Forecast, each in form and substance acceptable to the Lenders.

(d) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Closing Certificate. The Administrative Agent shall have received a certificate dated as of the Closing Date and signed by a Financial Officer of the Borrower confirming compliance with Sections 6.1(d), 6.1(h) and 6.1(k), in form and substance satisfactory to the Administrative Agent and the Required Lenders.

(f) Authorization of Proceedings of the Parent, the Borrower and the Guarantors; Corporate Documents. The Administrative Agent shall have received a certificate of each Credit Party dated as of the Closing Date, which shall contain appropriate attachments, including (i) a copy of the resolutions, minutes or written consents of the board of directors, the sole director or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery, and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrower,

the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement, Articles of Association or other comparable organizational documents, as applicable, of each Credit Party as in effect on the Closing Date, (iii) signature, specimen signatures and/or incumbency certificates (or other comparable documents evidencing the same) of the Authorized Officers of each Credit Party executing any Credit Document to which it is a party and (iv) good standing certificates (to the extent applicable) in the respective jurisdictions of organization of each Credit Party.

(g) Fees. All Fees due and payable on or before the Closing Date, including, to the extent invoiced not less than one Business Day prior to the Closing Date, reimbursement or payment of the reasonable and documented expenses (including the premiums and recording taxes and fees and the reasonable and documented fees and expenses of the Specified Lender Advisors, as counsel to the Ad Hoc Group of Lenders, the Lender Advisors, the Agent Advisors and counsel to the Escrow Agent, and the fees and expenses of any local counsel of the Lenders, shall be paid (or will be paid from the proceeds of the Loans)), in each case, to the extent required to be reimbursed or paid by the Credit Parties hereunder or under any other Credit Document.

(h) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(i) Other Filings. Each of the Chapter 11 Plan, the Chapter 11 Plan Disclosure Statement, and Solicitation Motion (as defined in the RSA) shall have been or be concurrently filed with the Bankruptcy Court.

(j) Patriot Act. The Administrative Agent (or its counsel) shall have received at least three Business Days prior to the Closing Date such documentation and information as is reasonably requested in writing at least ten Business Days prior to the Closing Date by the Administrative Agent about the Credit Parties under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

(k) Assignment. Evidence that Wilmington Savings Fund Society, FSB has been assigned as administrative agent and collateral agent under each Pre-Petition Credit Agreement and the other Pre-Petition Credit Documents, such evidence in form and substance satisfactory to the Lenders and the Administrative Agent.

(l) No Default. On the Closing Date and immediately after giving effect to any Loans made on the Closing Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

For purposes of determining compliance with the conditions specified in this Section 6.1 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

6.2 Conditions Precedent to the Funding Date. In addition to the conditions set forth in Section 6.1, the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion, any which waiver, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the Funding Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(b) Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Term Loans meeting the requirements of Section 2.3(a).

(c) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA, except as otherwise waived in accordance with the terms thereof.

(d) No Default. On the Funding Date and immediately after giving effect to any Loans made on the Funding Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(e) Flow of Funds Statement. The Administrative Agent shall have received a Flow of Funds Statement, in form and substance satisfactory to the Administrative Agent and the Required Lenders.

Section 7. Conditions Precedent to Withdrawal.

7.1 Conditions Precedent to Withdrawal. Any Withdrawal on or after the Funding Date is subject to the satisfaction or waiver of the following additional conditions precedent:

(a) No Default. At the time of and immediately after giving effect to such Withdrawal and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(b) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of such Withdrawal with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(c) Bankruptcy Proceedings. (i) The DIP Order, the Canadian Interim Orders and the Canadian Final Order (to the extent required to be in effect on the date of such Withdrawal) shall not have been vacated, stayed, reversed, modified, or amended, in whole or in any part, without the Administrative Agent's and the Required Lenders' written consent and shall otherwise be in full force and effect; (ii) no

motion for reconsideration of the Final Order and/or the Canadian Final Order shall have been timely filed by a Debtor or any of their Subsidiaries; and (iii) no appeal of the Final Order and/or the Canadian Final Order shall have been timely filed.

(d) RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Fee. All fees and expenses required to be paid under the Credit Documents shall have been paid (or will be paid from the proceeds of the Loans).

(f) Approved Budget. The proceeds of the Loans shall be used as set forth in the Approved Budget (subject to the Permitted Variance).

(g) Withdrawal Notice. The Borrower has delivered to the Administrative Agent (for distribution to the Lenders and the Specified Lender Advisors) an executed Withdrawal Notice, executed by the Borrower requesting the proposed Withdrawal thereunder by no later than 1:00 p.m. (New York City time) on the Wednesday of the week (provided that in connection with the Funding Date, such Withdrawal notice may be provided at least one Business Day prior to the Funding Date) for a proposed funding of such Withdrawal on Friday of such week, which Withdrawal Notice (other than the Withdrawal Notice delivered on the Funding Date) will set forth the Actual Liquidity as of the Friday prior to the date of such Withdrawal Notice.

(h) Maximum Withdrawal. The amount of such Withdrawal does not exceed the Maximum Withdrawal Amount.

(i) Orders. Other than in connection with the Withdrawal on the Funding Date, the Canadian Bankruptcy Court shall have entered the Canadian Interim Orders, and such orders shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent).

Notwithstanding the foregoing, if the Required Lenders determine that the Borrower has failed to satisfy the conditions precedent set forth in this Section 7 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through the Specified Lender Advisors), the Administrative Agent (at the Direction of the Required Lenders) shall communicate the same to the Escrow Agent.

On any date on which the Loans shall have been accelerated, any amounts remaining in the Loan Proceeds Account, as the case may be, may be applied by the Administrative Agent to reduce the Loans then outstanding, in accordance with Section 5.3(d). None of the Credit Parties shall have (and each Credit Party hereby affirmatively waives) any right to withdraw, claim or assert any property interest in any funds on deposit in the Loan Proceeds Account upon the occurrence and continuance of any Default or Event of Default (except to fund the Carve Out).

The acceptance by the Borrower of the Loans or proceeds of a Withdrawal shall conclusively be deemed to constitute a representation by the Borrower that each of the conditions precedent set forth in Section 7 shall have been satisfied in accordance with its respective terms or has been irrevocably and expressly waived by the applicable Person; provided, however, that the making of any such Loan or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Administrative Agent, any Lender or other Secured Party of the

provisions of this Section 7 on such occasion or on any future occasion or operate as a waiver of (i) the right of Administrative Agent and Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent, the Escrow Agent or any Lender as a result of any such failure of the Credit Parties to comply with such conditions precedent.

Section 8. Representations and Warranties

In order to induce the Lenders to enter into this Agreement and to make the Loans provided for herein, the Parent and the Borrower make the following representations and warranties to each Agent, the Escrow Agent and the Lenders on the date of each Credit Event (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

8.1 Corporate Status. Each Credit Party (a) is a duly organized and validly existing corporation, limited liability company or other entity in good standing (if applicable) under the laws of the jurisdiction of its organization and subject to entry of the Interim Order or the Final Order, as applicable, and subject to any restrictions arising on account of any Credit Party's status as a "debtor" under the Bankruptcy Code, has the corporate, limited liability company or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified or authorized, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

8.2 Corporate Power and Authority. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Document constitutes the legal, valid, and binding obligation of each Credit Party enforceable in accordance with its terms, subject to the Legal Reservations.

8.3 No Violation. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the other transactions contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default (that is not excused by the Bankruptcy Code) under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of its Subsidiaries (other than Liens created under the Credit Documents, the DIP Order, any restrictions arising on account of such Credit Party's status as a "debtor" under the Bankruptcy Code, or Permitted Liens) pursuant to, the terms of any indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other instrument to which such Credit Party or any of its Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than, in the case of clause (b), to the extent any such breach, default or Lien would not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws, articles or other organizational documents of such Credit Party or any of its Subsidiaries.

8.4 Litigation. Except for the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no actions, suits or proceedings pending or, to the knowledge of any Credit Party, threatened in writing against any Credit Party or any of its Subsidiaries (a) that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (b) that involves this Agreement or the Transactions.

8.5 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6 Governmental Approvals. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, the execution, delivery and performance of each Credit Document does not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings, consents, approvals, registrations and recordings in respect of the Liens created pursuant to the Security Documents (and to release existing Liens), and (iii) such licenses, approvals, authorizations, registrations, filings or consents the failure of which to obtain or make would not reasonably be expected to result in a Material Adverse Effect.

8.7 Investment Company Act. No Credit Party nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

8.8 True and Complete Disclosure.

(a) None of the written information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Credit Parties any of their Subsidiaries or any of their respective authorized representatives to the Administrative Agent and/or any Lender on or before the Closing Date (including all such written information and data contained in the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein, contain any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time in light of the circumstances under which such information or data was furnished (after giving effect to all supplements and updates), it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections, estimates (including financial estimates, forecasts, and other forward-looking information) or other forward-looking information and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts, and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

8.9 Financial Condition; Financial Statements.

(a) The Parent has heretofore furnished to the Lenders its audited consolidated balance sheet and statement of income, stockholders equity and cash flows as of and for the fiscal years ended January 31, 2019 and January 31, 2018. Such financial statements present fairly in all material respects the combined financial position of the Parent and its Subsidiaries at the respective dates of said information, statements and results of operations for the respective periods covered thereby. The financial statements

referred to in clause (a) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements.

(b) Since January 31, 2019, there has been no event, change or condition that has had or could reasonably be excepted to have a Material Adverse Effect.

(c) Except as set forth in the financial statements referred to in Section 8.9(a), the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no liabilities of any Credit Party of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise, which would reasonably be expected to result in a Material Adverse Effect.

8.10 Compliance with Laws; No Default. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party and each of its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

8.11 Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or is excused by the Bankruptcy Court or as a result of the filing of the Chapter 11 Cases, (a) each Credit Party and each of its Subsidiaries has filed all Tax returns required to be filed by it (including in its capacity as withholding agent) and has timely paid all Taxes payable by it that have become due, and (b) there is no current or proposed Tax assessment, deficiency or other claim against any Credit Party or any of its Subsidiaries, other than, in each of clauses (a) and (b), those being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the nonpayment of which is permitted or required under the Bankruptcy Code.

8.12 Compliance with ERISA and Foreign Plans.

(a) Except as would not reasonably be expected to have a Material Adverse Effect, no ERISA Event has occurred or is reasonably expected to occur.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

(c) Except as would not reasonably be expected to have a Material Adverse Effect:

(i) All Canadian Pension Plans are duly registered under the *Income Tax Act* (Canada), applicable pension standards legislation and any other applicable laws which require registration, and no event has occurred which could reasonably be expected to cause the loss of such registered status. Schedule 8.12 describes each Canadian Benefit Plan and lists the name and registration number of each Canadian Pension Plan. The Canadian Pension Plans and the Canadian Benefit Plans have each been administered, funded and invested in accordance with the terms of particular plan, all applicable laws including, where applicable, the *Income Tax Act* (Canada) and pension standards legislation, and the terms of all applicable collective bargaining agreements and employment contracts.

(ii) All material obligations of each Credit Party (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans, the Canadian Benefit Plans and the funding agreements therefor have been performed on a timely basis. There are no outstanding disputes concerning the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No promises of material benefit improvements under the Canadian Pension Plans or the Canadian Benefit Plans have been made.

All employee and employer payments, contributions or premiums required to be withheld, made, remitted or paid to or in respect of each Canadian Pension Plan or Canadian Benefit Plan and all other amounts that are due to the pension fund of any Canadian Pension Plan from any Credit Party have been withheld, made, remitted or paid on a timely basis in accordance with the terms of such plans, any applicable collective bargaining agreement or employment contract and all applicable laws.

(iii) Any assessments owed to the Pension Fund established under the *Pension Benefits Act* (New Brunswick) or other assessments or payments required under similar legislation in any other jurisdiction, in respect of any Canadian Pension Plan have been paid when due. There has been no improper withdrawal or application of the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No event has occurred which could reasonably be expected to give rise to a partial or full termination of any Canadian Pension Plan. No event has occurred or is reasonably expected to occur that could trigger or otherwise require immediate or accelerated funding in respect of any Canadian Benefit Plan.

8.13 Subsidiaries. Schedule 8.13 sets forth (a) a correct and complete list of the name and relationship to the Parent of each Subsidiary, (b) a true and complete listing of each class of the Borrower's authorized Equity Interests, all of which issued shares are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 8.13, and (c) the type of entity of the Parent and each Subsidiary. Except as set forth on Schedule 8.13 (or, as supplemented with the consent of the Required Lenders on or prior to the Final Hearing Date, as confirmed by any Specified Lender Advisors (which approval may be communicated via an email from any of the Specified Lender Advisors)), there are no outstanding commitments or other obligations of any Credit Party to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Credit Party.

8.14 Intellectual Property. Other than as a result of the Chapter 11 Cases and subject to any necessary orders or authorization of the Bankruptcy Court, each Credit Party and its Subsidiaries owns or is licensed to use all Intellectual Property that is material to and used in or otherwise necessary for the operation of their respective businesses as currently conducted. The operation of their respective businesses by each of the Credit Parties and its Subsidiaries does not infringe upon, misappropriate, violate or otherwise conflict with the Intellectual Property of any third party, except as would not be material to the businesses of each Credit Party and its Subsidiaries.

8.15 Environmental Laws.

(a) Except as set forth on Schedule 8.15, or as would not reasonably be expected to have a Material Adverse Effect: (i) each of the Credit Parties and its Subsidiaries and their respective operations and properties are in compliance with all applicable Environmental Laws; (ii) none of the Credit Parties or any Subsidiary has received written notice of any Environmental Claim; (iii) none of the Credit Parties or any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) no underground or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by the Credit Parties or any Subsidiary.

(b) Except as set forth on Schedule 8.15, No Credit Party or any of its Subsidiaries has treated, stored, transported, Released or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of any Credit Party, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that would reasonably be expected to have a Material Adverse Effect.

8.16 Properties. Other than as a result of the Chapter 11 Cases and subject to any necessary authorization of the Bankruptcy Court:

(a) Each of the Credit Parties and its Subsidiaries has good and valid record title to, valid leasehold interests in, or rights to use, all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title or interest would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such act has been obtained in accordance with Section 9.3(b).

(b) Set forth on Schedule 8.16(b) is a list of each real property owned by any Credit Party as of the Closing Date having a Fair Market Value in excess of $1,000,000.

(c) Set forth on Schedule 8.16(c) is a list of each real property leased by any Credit Party as of the Closing Date where Collateral with an aggregate value in excess of $1,000,000 is located.

8.17 No EEA Financial Institution. No Credit Party is an EEA Financial Institution.

8.18 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of The Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the "**European Union Regulation**"), its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) is situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

8.19 [Reserved].

8.20 OFAC; USA PATRIOT Act; FCPA.

(a) On the Funding Date and each Withdrawal Date, the use of proceeds of the Loans will not violate the PATRIOT Act, OFAC Regulations, and other Anti-Terrorism Laws.

(b) To the extent applicable, each Credit Party and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto ("**OFAC Regulations**"), (ii) the USA PATRIOT Act, (iii) the FCPA and (iv) AML Legislation, the *Corruption of Foreign Public Officials Act* (Canada) and any other similar applicable law.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**").

(d) No Credit Party (i) is currently the subject of any Sanctions or (ii) is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Loan, has been used by any Credit Party, directly, to lend, contribute, provide or has otherwise made available to fund any activity or

business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender and the Administrative Agent) of Sanctions.

8.21 Security Interest in Collateral. Upon execution and delivery thereof by the parties thereto and upon the entry by the Bankruptcy Court of the Interim Order or the Final Order, as applicable, and subject to the provisions of this Agreement and the Security Documents, the Security Documents are effective to create (to the extent described therein) in favor of the Collateral Agent, for the benefit of itself and the other Secured Parties, a legal, valid and enforceable security interest in or liens on the Collateral described therein and the proceeds thereof, except as to enforcement, as the same may be limited by Bail-In Action, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing. Upon the entry by the Bankruptcy Court of the Interim Order or Final Order, as applicable, and in accordance therewith, the security interests and liens granted pursuant to the Interim Order, the Final Order and the Security Documents shall automatically, and without further action (other than, where necessary, any Foreign Law Security Filings), constitute a perfected security interest in (to the extent intended to be created thereby and required to be perfected under the Credit Documents) all right, title and interest of each pledgor or mortgagor (as applicable) party thereto in the Collateral described therein with respect to such pledgor or mortgagor (as applicable). Notwithstanding any other provision of this Agreement, capitalized terms that are used in this Section 8.21 and not defined in this Agreement are so used as defined in the applicable Security Document.

8.22 Use of Proceeds. Subject to the terms and conditions herein, the use of cash collateral and the proceeds of the Loans made hereunder shall be used by the Borrower, solely on or after the Closing Date, in accordance with the DIP Order and the Approved Budget (subject to Permitted Variances): (i) to pay related transaction costs, fees and expenses (including attorney's fees required to be paid hereunder and to fund the Carve Out) with respect to the DIP Facility, (ii) to make the adequate protection payments (if any) in accordance with the Approved Budget and the DIP Order, (iii) to fund the operation of certain non-Debtor Subsidiaries through "on-lending" or contributions of capital; provided that the proceeds of the Loans used to fund non-Debtor Subsidiaries under this Section 8.22(iii) shall not exceed the Maximum Non-Debtor Investment Cap, and (iv) to provide working capital, and for other general corporate purposes of the Credit Parties and their Subsidiaries, and to pay administration costs of the Chapter 11 Cases and the Canadian Recognition Proceeding and claims or amounts approved by the Court. The Credit Parties shall not be permitted to use the proceeds of the Loans or any cash collateral in contravention of the provisions of the Credit Documents, the DIP Order or the applicable Debtor Relief Laws, including any restrictions or limitations on the use of proceeds contained therein; provided that, no proceeds of the Loans will be used in connection with (including without limitation, to fund or prefund) any executive retention plan without the express written consent of the Required Lenders (which consent may be communicated via an email from any Specified Lender Advisor).

8.23 Insurance. The Credit Parties are in compliance with Section 9.3.

8.24 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date and the Canadian Recognition Proceedings were commenced thereafter, in accordance with applicable law and proper notice thereof was given for (x) the motion seeking approval of the Interim Order and the application seeking approval of the Canadian Interim Orders (y) the hearing for the entry of the Interim Order and the Canadian Interim Orders and (z) the hearing for the entry of the Final Order and the Canadian Final Order. The Debtors shall give, on a timely basis as specified in the Interim Order or Final Order, as applicable, all notices required to be given to all parties specified in the Interim Order or Final Order, as applicable.

(b) After entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against each Credit Party now existing or hereafter arising of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726, 1113, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under Section 364(c)(1) of the Bankruptcy Code, subject only to the Carve Out and the priorities set forth in the Interim Order or the Final Order, as applicable. After entry of the Canadian Supplemental Order, and pursuant to and to the extent permitted in the Canadian Supplemental Order and the Canadian Final Order, the Obligations of the Debtors in Canada hereunder will be secured by the CCAA DIP Lender's Charge having priority over all claims or any nature or kind against the Debtors in Canada, subject only to the CCAA Administration Charge.

(c) The Interim Order (with respect to the period prior to the entry of the Final Order) or the Final Order (with respect to the period on and after the entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors). The Canadian Supplemental Order (with respect to the period prior to the entry of the Canadian Final Order) or the Canadian Final Order (with respect to the period on and after the entry of the Canadian Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from either of the Specified Lender Advisors).

(d) Notwithstanding the provisions of Section 362 of the Bankruptcy Code and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of such Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Bankruptcy Court. Subject to the Canadian Supplemental Order or the Canadian Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of the Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Canadian Bankruptcy Court.

Section 9. Affirmative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

9.1 Information Covenants. The Borrower will furnish to the Administrative Agent and the Specified Lender Advisors:

(a) [Reserved].

(b) Quarterly Financial Statements; Monthly Financial Statements.

(i) Quarterly Financial Statements. Commencing with the fiscal quarter ending April

30, 2020, as soon as available and in any event within five days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Parent (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days (or with respect to the fiscal quarter ending April 30, 2020, 60 days) after the end of each such quarterly accounting period), the consolidated balance sheets of the Parent and the Subsidiaries as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for the elapsed portion of the fiscal year ended with the last day of the applicable quarterly period, and setting forth comparative consolidated and/or combined figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the related period in the prior fiscal year, all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with GAAP (except as noted therein), subject to changes resulting from normal year-end adjustments and the absence of footnotes.

(ii) Monthly Financial Statements. Commencing with the month ending May 31, 2020, as soon as available but in any event not later than the thirtieth (30th) day (or with respect to the month ending May 31, 2020, forty-fifth (45th) day) after the end of month, the unaudited financial summary of the financial performance, the unaudited consolidated balance sheet and the unaudited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows of the Parent and the Subsidiaries as of the end of and for such month and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year.

(c) Officer's Certificates. Concurrently with the delivery of the financial statements provided for in Sections 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth a specification of any change in the identity of the Subsidiaries as at the end of such fiscal period, as the case may be, from the Subsidiaries provided to the Lenders on the Closing Date or the most recent fiscal period, as the case may be.

(d) Notice of Material Events. Promptly (and in any event, unless otherwise set forth herein, within four Business Days thereof) after an Authorized Officer of any Credit Party or any of its Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental proceeding pending against any Credit Party or any of its Subsidiaries that would reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect and (iii) to the extent reasonably practicable, (i) at least three Business Days (provided that if delivery of such documents, motions, orders, or applications at least three Business Days in advance is not reasonably practicable prior to filing, such period for delivery may be shortened upon the consent of the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor)) prior to the date when the Borrower intends to file the RSA, any documents implementing and achieving the Transactions (as defined in the RSA) and the transactions contemplated by the Credit Documents, as applicable, including any substantive "first day" or "second day" motions, the Chapter 11 Plan and any supplement thereto, the Chapter 11 Plan Disclosure Statement, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan Disclosure Statement and the related solicitation

materials, any proposed Interim Order and Final Order, any proposed Canadian Interim Orders, Canadian Final Order or Canadian Confirmation Order, in each case, with the Bankruptcy Court or the Canadian Bankruptcy Court, as applicable, and (ii) at least one (1) calendar day (or such shorter review period as necessary or appropriate) prior to the date when the Borrower intends to file any other material pleading with the Bankruptcy Court or the Canadian Bankruptcy Court (but excluding retention applications, fee applications, and any declarations in support thereof or related thereto);

(e) Notice of Environmental Matters. Promptly (and in any event within four Business Days thereof) after an Authorized Officer of any Credit Party or any Subsidiary thereof obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not reasonably be expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate; and

(ii) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, Release or threatened Release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation or removal, remedial or other corrective action in response thereto. The term "**Real Estate**" shall mean land, buildings, facilities and improvements owned or leased by any Credit Party or any of its Subsidiaries.

(f) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by any Credit Party (or any Parent Entity) or any of its Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices, and reports that the Credit Parties or any of its Subsidiaries shall send to the holders of any publicly issued debt of the Parent and/or any of its Subsidiaries, in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent, the Specified Lender Advisors, the Crossholder Lender Advisors or any Lender may reasonably request; provided that none of the Parent nor any of its Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective contractors) is prohibited by law, or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Credit Parties and their Subsidiaries by furnishing the applicable financial statements of the Parent or any direct or indirect parent of the Parent, as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, to the extent such information relates to a parent of Parent, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Parent and its Subsidiaries on a standalone basis, on the other hand.

Documents required to be delivered pursuant to clauses (a) and (b) of this Section 9.1 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the earliest date on which (i) the Borrower

posts such documents, or provides a link thereto on the Parent's or a Parent Entity's website on the Internet; (ii) such documents are posted on behalf of the Credit Parties on IntraLinks/IntraAgency or another website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent), or (iii) such financial statements and/or other documents are posted on the SEC's website on the internet at www.sec.gov; provided that (A) the Borrower shall, at the request of the Administrative Agent, continue to deliver copies (which delivery may be by electronic transmission) of such documents to the Administrative Agent and (B) the Borrower shall in any event notify (which notification may be by facsimile or electronic transmission) the Administrative Agent of the posting of any such documents on any website described in this paragraph. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents and maintaining its copies of such documents. The Required Lenders may waive any delivery requirement set forth in this Section 9.1 (which waiver may be communicated via email by any Specified Lender Advisor).

Each Credit Party hereby acknowledges and agrees that, unless the Borrower notifies the Administrative Agent in advance, all financial statements and certificates furnished pursuant to Sections 9.1(a), (b) and (d) above are hereby deemed to be suitable for distribution, and to be made available, to all Lenders.

9.2 Books, Records, and Inspections.

(a) The Parent will, and will cause each Subsidiary to, permit officers and designated representatives of the Administrative Agent, the Specified Lender Advisors or the Required Lenders to visit and inspect any of the properties or assets of the Parent and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Parent and any such Subsidiary and discuss the affairs, finances and accounts of the Parent and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, at any time during normal business hours and upon reasonable advance notice without limitation on frequency and to such extent as the Administrative Agent, the Specified Lender Advisors or the Required Lenders may desire. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Credit Parties' independent public accountants.

(b) The Parent will, and will cause each Subsidiary to maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Parent and any such Subsidiary, as the case may be.

9.3 Maintenance of Insurance. (a) The Parent will, and will cause each of its Subsidiary to, at all times maintain in full force and effect, with insurance companies that are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis and against at least such risks (and with such risk retentions) as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis; and the Borrower will furnish to the Administrative Agent and the Specified Lender Advisors, promptly following written request from the Administrative Agent (acting at the Direction of the Required Lenders), information presented in reasonable detail as to the insurance so carried, (b) if (x) any improved portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in

effect or successor act thereto) and (y) the Collateral Agent shall have delivered a notice to the Borrower stating that such Mortgaged Property is located in such special flood hazard area with respect to which such flood insurance has been made available, then the applicable Credit Party shall (i) obtain flood insurance in such total amount and in such form as the Administrative Agent (acting at the Direction of the Required Lenders) or the Required Lenders may from time to time reasonably require, and otherwise comply with the Flood Insurance Laws, (ii) deliver to the Administrative Agent and the Specified Lender Advisors evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), including, without limitation, a copy of the flood insurance policy and a declaration page relating to the insurance policies required by this Section 9.3 which shall (1) identify the addresses of each property located in a special flood hazard area, (2) indicate the applicable flood zone designation, the flood insurance coverage and the deductible relating thereto, (3) provide that the insurer will give the Administrative Agent forty-five days written notice of cancellation or non-renewal and shall include evidence of annual renewals of such insurance and (4) be otherwise in form and substance satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) and (c) such insurance will (i) in the case of each casualty insurance policy, contain a lender loss payable endorsement that names the Collateral Agent, on behalf of the Secured Parties as the lender loss payee thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured) and (ii) in the case of each casualty insurance policy, contain an additional insured endorsement that names the Collateral Agent, on behalf of the Secured Parties as an additional insured thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured).

9.4 Payment of Taxes. The Parent or the Borrower will pay and discharge, and will cause each of its Subsidiaries to pay and discharge, all material Taxes imposed upon it (including in its capacity as a withholding agent) or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, would reasonably be expected to become a material Lien upon any properties of the Credit Parties or any of the Subsidiaries; provided that no Credit Party nor any of its Subsidiaries shall be required to pay any such Tax that is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the failure to pay (i) is permitted or required under the Bankruptcy Code or (ii) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

9.5 Preservation of Existence; Consolidated Corporate Franchises. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each Credit Party to, take all actions necessary (a) to preserve and keep in full force and effect its existence, organizational rights and authority and (b) to maintain its rights, privileges (including its good standing (if applicable)), permits, Intellectual Property rights, licenses and franchises necessary in the normal conduct of its business, in each case (other than with respect to the presentation of the existence, organizational rights and authority of the Credit Parties), except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided, however, that each Credit Party and its Subsidiaries may consummate any transaction permitted under Permitted Investments and Sections 10.2, 10.3, 10.4, or 10.5.

9.6 Compliance with Statutes, Regulations, Etc. The Parent will, and will cause each of its Subsidiary to, (a) comply with all applicable laws, rules, regulations, and orders applicable to it or its property, including, without limitation, applicable laws administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury and the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations promulgated thereunder, and all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with

and maintain, any and all licenses, approvals, notifications, registrations or permits required by Environmental Laws, and (c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives which are being timely contested in good faith by proper proceedings, except (i) in each case of (a), (b), and (c) of this Section 9.6, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect or (ii) compliance is excused by, or otherwise prohibited by, the provisions of the Bankruptcy Code or as a result of the Chapter 11 Cases.

9.7 Employee Benefit Matters. (a) The Borrower will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any of its Subsidiaries may request with respect to any Multiemployer Plan to which a Credit Party or any of its Subsidiaries is obligated to contribute; provided that if any Credit Party or any of its Subsidiaries have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent or the Required Lenders (which request may be communicated via email by any Specified Lender Advisor), such Credit Party shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) promptly after receipt thereof.

9.8 Maintenance of Properties. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear, casualty, and condemnation excepted, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

9.9 Transactions with Affiliates. The Parent and the Borrower will conduct, and cause each of the Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Credit Parties) involving aggregate payments or consideration in excess of $1,000,000 for any individual transaction or series of related transactions on terms that are at least substantially as favorable to the Credit Party or such Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, as determined by the board of directors of the Borrower or such Subsidiary in good faith; provided that the foregoing restrictions shall not apply to (a) the transactions set forth in that certain cooperation agreement among the Debtors, certain of the Pre-Petition First Lien Lenders and the Pre-Petition Second Lien Lenders, the Sponsor (as defined herein) and each of the four (4) Luxembourg parent entities of Debtor Pointwell Limited, effective as of June 12, 2020, (b) transactions permitted by Section 10.5, (c) consummation of the Transactions and the payment of the Transaction Expenses, (d) the issuance of Capital Stock or Stock Equivalents of the Parent (or any direct or indirect parent thereof) or any of its Subsidiaries not otherwise prohibited by the Credit Documents, (e) [reserved], (f) employment and severance arrangements between the Credit Parties and the Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business and in effect on the Closing Date, (g) payments by the Parent (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among the Parent (and any such parent) and the Subsidiaries, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Parent (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Parent and the Subsidiaries, solely as to any costs and expenses in an aggregate amount not to exceed $500,000, (i) [reserved], (j) transactions pursuant to any agreement or arrangement as in effect as of the Closing Date, (k) [reserved], (l) [reserved], (m) Affiliate repurchases of the Loans or Commitments to the extent permitted hereunder and the holding of such Loans or Commitments and the payments and other transactions

contemplated herein in respect thereof and (n) any customary transactions with a Receivables Subsidiary effected as part of the Receivables Facility.

9.10 End of Fiscal Years. The Parent and each of its Subsidiaries will maintain its fiscal year as in effect on the Closing Date unless the Required Lenders consent to any change to such fiscal year (which consent may be communicated via an email from any of the Specified Lender Advisors).

9.11 Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Security Documents, the Parent will take action necessary to cause each direct or indirect Subsidiary (other than any Excluded Subsidiary or any Immaterial Subsidiary (unless requested by the Required Lenders)) formed or otherwise purchased or acquired after the Closing Date and each other Subsidiary that ceases to constitute an Excluded Subsidiary, within 30 days (or 45 days with respect to any Subsidiary not organized in the United States, Canada or Ireland) from the date of such formation, acquisition, cessation or request, as applicable (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to (a) be included in the grant of liens and claims in the DIP Order or take action necessary to cause such Person and/or (b) execute a supplement to each of the Guarantee, the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and execute any of the Irish Security Documents, as applicable, and the U.S. Security Agreement or a Foreign Security Agreement, as applicable, in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent requested by the Collateral Agent (acting at the Direction of the Required Lenders), enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to the Collateral Agent (acting at the Direction of the Required Lenders) and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date and pursuant to Section 9.14(d) in the case of such Credit Parties.

9.12 Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents, the Parent will cause (i) all certificates representing Capital Stock and Stock Equivalents of any Subsidiary held directly by any Credit Party representing Collateral, (ii) [reserved] and (iii) any promissory notes evidencing Indebtedness in excess of $1,000,000 of the Credit Parties or any Subsidiary (other than any Excluded Subsidiary) that is owing to the any Credit Party, in each case, to be delivered to the Collateral Agent as security for the Obligations accompanied by undated instruments of transfer executed in blank pursuant to the terms of the Security Documents.

9.13 Use of Proceeds. The Parent and the Borrower will, and will cause each Subsidiary to use the proceeds of the Loans only for the purposes set forth in Section 8.22.

9.14 Further Assurances.

(a) Subject to the terms of Sections 9.11 and 9.12, this Section 9.14 and the Security Documents, the Parent and the Borrower will, and will cause each Credit Party to, execute any and all further documents, financing statements, agreements, and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust, and other documents) that may be required under any applicable law, or that the Collateral Agent (acting at the Direction of the Required Lenders) or the Required Lenders may reasonably request, in order to grant, preserve, protect, and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrower; provided that, notwithstanding anything to the contrary contained herein or in any other Credit Document, the Required Lenders may request the Parent to take action necessary to cause each Immaterial Subsidiary in existence

on the Closing Date, within 45 days from the date of such request (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to take all actions contemplated under Section 9.12 to become a Guarantor and to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date.

(b) Subject to any applicable limitations set forth in the Security Documents, if any assets (including any real estate or improvements thereto or any interest therein) are acquired by any Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute a fee interest in real property, the Borrower will notify the Collateral Agent, and, if requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), the Credit Parties will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or reasonably requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), including the granting of a Mortgage on such owned real estate, as soon as commercially reasonable but in no event later than 30 days thereafter (unless extended by the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) in their sole discretion), to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), shall be delivered within such time period as requested by the Required Lenders and accompanied by, in each case to the extent requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor) (w) to the extent available in the applicable jurisdiction, a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a title insurance company or similar insurer recognized in such jurisdiction, in such amounts as reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) not to exceed the Fair Market Value of the applicable Mortgaged Property, insuring the Lien of each Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Required Lenders and otherwise in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor) (the "**Title Policy**"), together with, such endorsements, coinsurance and reinsurance as the Required Lenders may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided that in no event shall the Administrative Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, (x) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor), (y) with respect to property located in the United States, a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if any improvements on such Mortgaged Property are located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) evidence the insurance required by Section 9.3 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction may be communicated by email from any of the Specified Lender Advisor), and (z) an ALTA survey in a form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) or such existing survey together with a no-change affidavit sufficient for the title company to issue the survey related endorsements and to remove all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (w) above.

(d) Post-Closing Covenant. The Parent agrees that it will, or will cause its Subsidiaries to complete each of the actions described on Schedule 9.14, in each case, as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14 with respect to such action or such later date as the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) may agree in their sole discretion.

9.15 Maintenance of Ratings. Prior to the early to occur of (i) thirty days after the Petition Date and (ii) the entry of the Final Order, the Borrower will use commercially reasonable efforts to obtain and maintain a private corporate family and/or corporate credit rating, as applicable, and ratings in respect of the credit facilities provided pursuant to this Agreement (but not maintain any specific rating), in each case, from each of S&P and Moody's or, with the consent of the Required Lenders in the event that Moody's and/or S&P are not willing to so rate the Loans, such other rating agency, as applicable, as is acceptable to the Required Lenders (which acceptance may be communicated via email from any of the Specified Lender Advisors).

9.16 Lines of Business. The Parent, the Borrower and their Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Credit Parties and their Subsidiaries, taken as a whole, on the Closing Date and other business activities which are reasonable extensions thereof.

9.17 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of the European Union Regulation, its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) shall be situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

9.18 Approved Budget.

(a) The Approved Budget shall set forth, on a weekly basis, among other things, Budgeted Cash Receipts, Budgeted Operating Disbursement Amounts, Budgeted Liquidity, Budgeted Restructuring Related Amounts and Budgeted Borrower Professional Fees for the 13-week period commencing with the first full week after the Closing Date and shall be approved by and in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors); provided that it is acknowledged and agreed by the parties hereto that the Initial Approved Budget is approved by and satisfactory to the Required Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of this Section, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors. The Approved Budget shall be updated, modified or supplemented by the Borrower from time to time in writing transmitted to the Administrative Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required Lenders (with a copy of such written consent or request concurrently delivered to the Administrative Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week after the Closing Date, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period

covered by the prior approved Approved Budget has terminated (and at all times thereafter such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Each Approved Budget shall be accompanied by such supporting documentation as reasonably requested by the Specified Lender Advisors and prepared in good faith based upon assumptions believed by the Borrower to be reasonable.

(b) For each Variance Testing Period, the Borrower shall not permit: (x) the Actual Cash Receipts to be less than Budgeted Cash Receipts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance for such Variance Testing Period and (y) Actual Operating Disbursement Amounts to exceed the Budgeted Operating Disbursement Amounts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance.

(c) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) on or before 5:00 p.m. (New York City time) on Thursday of every other week (commencing on July 16, 2020), a certificate which shall include such detail as is reasonably satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), signed by an Authorized Officer of the Borrower (i) certifying that the Credit Parties are in compliance with the covenants contained in Section 9.18(a) and (b), (ii) certifying that no Default or Event of Default has occurred or, if such a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (iii) identifying the cumulative amount of any Investments made pursuant to clause (vi) of the definition of "Permitted Investments" as of the date of such report and (iv) certifying to the amount of Actual Liquidity as of the Friday of the prior calendar week, and attaching the Approved Budget Variance Report which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period, and shall be in a form and substance satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors).

(d) The Administrative Agent and the Lenders (i) may assume that the Credit Parties will comply with the Approved Budget (subject to Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Credit Parties remain obligated to pay any and all Obligations in accordance with the terms of the Credit Documents regardless of whether such amounts exceed such estimates. Nothing in any Approved Budget shall constitute an amendment or other modification of any Credit Document or other lending limits set forth therein.

9.19 Cash Flow Forecast.

(a) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors on or before 5:00 p.m. (New York City time) on Thursday every fourth week (commencing on July 16, 2020) supplemental Cash Flow Forecasts, which shall set forth, on a weekly basis, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period. The projections delivered pursuant to this Section 9.19 shall not constitute the "Approved Budget" for any purpose hereunder.

9.20 Monthly Calls and Status Update Calls

(a) At one point during the month upon the request of the Required Lenders, with reasonable

notice and an agenda provided to management prior thereto, the Borrower shall conduct monthly telephone conferences which at the election of the Required Lenders can include, the Specified Lender Advisors, the Crossholder Lender Advisors and all or a portion of the Lenders (and can be split into (i) a Public Siders and non-Public Siders portion and (ii) a solely non-Public Sider Lenders portion) and permit questions from such Lenders and answers; provided that (I) questions from the Lenders shall be provided to the Borrower in writing no later than two (2) Business Days in advance and (II) for the avoidance of doubt, the Borrower shall not be obligated to disclose any material non-public information during the Public-Siders and non-Public-Siders portion of such telephone conferences;

(b) At the request of the Specified Lender Advisors (in consultation with the Crossholder Lender Advisors), not more than twice a month from and after the Petition Date through the Maturity Date, the Borrower shall hold a meeting (at a mutually agreeable location and time or telephonically with reasonable notice to management prior thereto) with management of the Borrower, the Specified Lender Advisors and the Crossholder Lender Advisors, which meeting, at the discretion of the Specified Lender Advisors (and the Crossholder Lender Advisors, solely with respect to the Ad Hoc Group of Crossholder Lenders), may include private side Lenders, public side Lenders and/or non-Public Sider Lenders; provided that the Specified Lender Advisors shall (i) communicate the participants to the Borrower in advance of such call or meeting and (ii) provide an agenda in advance of such call or meeting (which exercise of discretion may be communicated via an email from any of the Specified Lender Advisors) regarding the financing results, operations, compliance of the Credit Parties and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding; provided, further, that any such meeting that occurs during the same week as the telephone conference outlined in Section 9.21(a) hereof may be combined with such telephone conference; and

(c) promptly upon any reasonable request of any Specified Lender Advisor hold a telephonic meeting with such Specified Lender Advisor regarding the financing results, operations, other business developments and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding.

The Required Lenders may waive any requirements set forth in this Section 9.20 (which waiver may be communicated via e-mail by any Specified Lender Advisor).

9.21 Required Milestones. The Parent shall, or shall cause the following to occur, by the times and dates set forth below (as any such time and date may be extended, or any of such milestone set forth below may be modified, with the consent of the Required Lenders (which consent, and any consent of the Required Lenders described below may be communicated via an email from any of the Specified Lender Advisors)):

(a) By no later than one Business Day following the Petition Date, the Borrower shall file a Prepack Scheduling Motion seeking entry of the Prepack Scheduling Order, in form and substance reasonably acceptable to the Required Lenders.

(b) By no later than three Business Days following the Petition Date, the Bankruptcy Court shall enter (i) the Interim Order, and (ii) the Prepack Scheduling Order.

(c) By no later than four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada Ltd. shall have commenced the Canadian Recognition Proceeding.

(d) By no later than twenty-five calendar days following the Petition Date, the Bankruptcy Court shall enter the Final Order authorizing the DIP Facility, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(e) By no later than four Business Days following the entry of the Final Order, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Final Order.

(f) By no later than sixty calendar days following the Petition Date, the Bankruptcy Court shall enter an order confirming the Chapter 11 Plan, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(g) By no later than four Business Days following the entry of the order confirming the Chapter 11 Plan, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Confirmation Order.

(h) By no later than eighty calendar days following the Petition Date, the effective date of the Chapter 11 Plan shall have occurred.

9.22 Specified Lender Advisors.

(a) The Administrative Agent, on behalf of itself and the Lenders, the Collateral Agent, on behalf of its and the Secured Parties, the Lenders, each of the Specified Lender Advisors, on behalf of itself and the Lenders represented thereby, and the Crossholder Lender Advisors, on behalf of itself and the Lenders represented thereby, shall each be entitled to retain or continue to retain (either directly or through counsel) any advisor any Agent and the Ad Hoc Group of Lenders may deem necessary to provide advice, analysis and reporting for the benefit of the Agents or the Lenders. The Credit Parties shall pay all fees and expenses of such advisors in accordance with this Agreement and any other Credit Document, any applicable fee or engagement letters, and all such fees and expenses shall constitute Obligations and be secured by the Collateral. The Credit Parties and their advisors shall grant access to, and cooperate in all respects with, the Agents, the Lenders, the Specified Lender Advisors, the Agent Advisors and the Crossholder Lender Advisors and any other representatives of the foregoing and provide all information that such parties may request in a timely manner.

(b) The Borrower shall continue to retain the Company Advisors as company advisors consistent with the terms of their respective engagement agreements as in effect on the Closing Date or as otherwise agreed by the Required Lenders (which agreement may be communicated via an email from any of the Specified Lender Advisors).

9.23 Additional Bankruptcy Matters. The Borrower shall promptly provide the Administrative Agent, the Lenders and the Specified Lender Advisors with updates of any material developments in connection with the Credit Parties' reorganization efforts under the Chapter 11 Cases or the Canadian Recognition Proceeding, whether in connection with the sale of all or substantially all of the Parent's and its Subsidiaries' consolidated assets, the marketing of any Credit Parties' assets, the formulation of bidding procedures, auction plan, and documents related thereto, or otherwise

9.24 Debtor-in-Possession Obligations. The Borrower shall comply in a timely manner with its obligations and responsibilities as debtor-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the DIP Order, and any other order of the Bankruptcy Court or the Canadian Bankruptcy Court.

9.25 Deposit Accounts.

(a) Set forth on Schedule 9.25 is a list of each Bank Account of each Credit Party or its Subsidiaries as of the Closing Date. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree), the Borrower (or applicable Credit Party) shall enter

into a Control Agreement with each account bank, with respect to each Deposit Account (other than an Excluded Account) in which funds of any of the Credit Parties are deposited and a Control Agreement for any Securities Account (other than an Excluded Account) where securities are or may be maintained (including those existing as of the Closing Date). In addition, the Borrower (or applicable Credit Party) shall enter into a Control Agreement with respect to any such Deposit Account or Securities Account other than an Excluded Account which is established after the Closing Date, promptly and in any event within 30 days upon such establishment (or such longer period as the Required Lenders may agree in their discretion).

(b) The Borrower shall not permit more than $250,000 in the aggregate deposited in any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

9.26 Foreign Pledge. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree (which agreement may be communicated via an email from any of the Specified Lender Advisors)), the Borrower shall execute a supplement to each of the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in 100% of the equity of each Subsidiary directly owned by any Credit Party; unless the Borrower delivers a tax analysis by independent certified public accountants of recognized national standing (which may be Ernst & Young LLP) concluding that a security interest in such equity would reasonably be expected to result in a material tax consequence to the Credit Parties as determined by the Required Lenders (in consultation with the Borrower); provided that no pledge or supplement shall be required to the extent the Required Lenders determine that the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby.

Section 10. Negative Covenants

The Parent and the Borrower hereby covenants and agrees with the Lenders that on the Closing Date and thereafter, jointly and severally with all other Credit Parties, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees, and all other Obligations incurred hereunder, are paid in full that, unless consented to by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors):

10.1 Limitation on Indebtedness. The Parent and the Borrower will not, and will not permit any Subsidiary to create, incur, issue, assume, guarantee or otherwise become liable, contingently or otherwise (collectively, "**incur**" and collectively, an "**incurrence**"), with respect to any Indebtedness, and the no Credit Party will issue any shares of Disqualified Stock and will not permit any Subsidiary to issue any shares of Disqualified Stock.

The foregoing limitations will not apply to:

(a) Indebtedness arising under the Credit Documents;

(b) (x) Indebtedness under (i) the Pre-Petition First Lien Credit Agreement in an aggregate principal amount not to exceed $1,369,925,000, (ii) the Pre-Petition Second Lien Credit Agreement, in an aggregate principal amount not to exceed $670,000,000 and (iii) under the Receivables Facility, in an aggregate principal amount not to exceed $90,000,000.

(c) (i) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and (ii) intercompany Indebtedness outstanding on the Closing Date listed on Schedule 10.1;

(d) [reserved];

(e) Indebtedness incurred by any Credit Party, in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement or indemnification type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance;

(f) Capitalized Lease Obligations (i) outstanding on the Closing Date and (ii) incurred after the Closing Date in an aggregate amount not to exceed $3,000,000;

(g) Indebtedness of any Credit Party in respect of letters of credit with an aggregate face amount not to exceed $2,000,000;

(h) Indebtedness of any Credit Party owing to another Credit Party or of any Subsidiary that is not a Credit Party to another Subsidiary that is not a Credit Party;

(i) Indebtedness of any Credit Party to the extent expressly permitted in the Approved Budget;

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) Indebtedness in connection with cash management and related banking services in the ordinary course;

(n) guarantees of leases of any Credit Party in the ordinary course of business and in effect on the Closing Date;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(p) other Indebtedness in an aggregate amount not to exceed $1,000,000; and

(q) (1) any guarantee by a Credit Party of Indebtedness or other obligations of any Subsidiary that is a Credit Party or (2) by any Subsidiary that is not a Credit Party of Indebtedness of any other Subsidiary that is not a Credit Party; provided that any guarantee of Indebtedness permitted under this Section 10.1(q) is subordinated in right of payment to the Obligations; provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

10.2 Limitation on Liens. The Parent and the Borrower will not, and will not permit any of the Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any Credit Party or any Subsidiary, whether now owned or hereafter acquired (each, a "**Subject Lien**"), except if such Subject Lien is a Permitted Lien.

10.3 Limitation on Fundamental Changes. Except in connection with the Chapter 11 Plan, the Credit Parties will not, and will not permit any of the Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or

dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except that:

(a) The Credit Parties and any Subsidiary thereof may consummate transactions contemplated by the RSA;

(b) the Subsidiaries set forth on Schedule 10.3 may liquidate in the ordinary course; and

(c) so long as no Event of Default has occurred and is continuing or would result therefrom, (i) any Subsidiary of the Parent may be merged, amalgamated or consolidated with or into the Borrower in a transaction in which the Borrower is the surviving corporation and (ii) any Credit Party (other than the Parent or the Borrower) or any other Subsidiary may be merged into any other Credit Party in a transaction in which the surviving entity is a Credit Party.

10.4 Limitation on Sale of Assets. The Parent and the Borrower will not, and will not permit any of their Subsidiary to, consummate an Asset Sale, except that:

(a) any sale, transfer or disposition of (i) obsolete, worn out or surplus property or property (including leasehold property interests and Intellectual Property) that is no longer economically practical in its business or commercially desirable to maintain or no longer used or useful equipment (including any servers) in the ordinary course of business or (ii) Inventory in the ordinary course of business; provided that the Fair Market Value of all such sales, transfers and dispositions permitted by this clause (a)(i) from and after the Closing Date shall not exceed $100,000 in the aggregate at any one time outstanding;

(b) any disposition of property or assets or issuance of securities by (i) a Credit Party to a Credit Party and (ii) a Subsidiary that is not a Credit Party to a Credit Party or other Subsidiary of the Parent;

(c) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Credit Parties or any of its Subsidiaries;

(d) sales of accounts receivable, or participations therein, and related assets in connection with the Receivables Facility in accordance with the Approved Budget;

(e) other sales, transfers or dispositions pursuant to an order of the Bankruptcy Court which sale, transfer or disposition are consistent with the RSA and the Approved Budget;

(f) [reserved];

(g) [reserved];

(h) leases, assignments, subleases, licenses, or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Parent and the Subsidiaries, taken as a whole in an aggregate amount not to exceed $100,000 at any one time outstanding; and

(i) other Asset Sales in an aggregate amount not to exceed $250,000.

provided that for any Asset Sales permitted under Section 10.4(a) or (i), such Credit Party or such Subsidiary must receive consideration at the time of such Asset Sale at least equal to the Fair Market Value (determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed

of; and 100% of the consideration therefor received by such Credit Party or such Subsidiary, as the case may be, is in the form of cash or Cash Equivalents;

For the avoidance of doubt, no Credit Party will, nor will it permit any Subsidiary to, enter into any Sale Leaseback.

10.5 Limitation on Restricted Payments. The Parent and the Borrower will not, and will not permit any Subsidiary to:

(a) declare or pay any dividend or make any payment or distribution on account of any Credit Party's or any of its Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

(i) Restricted Payments to effectuate the transactions contemplated by the RSA, or

(ii) dividends or distributions by a Subsidiary so long as, a Credit Party is the recipient of such dividend or distribution or such dividend or distribution by a Subsidiary that is not a Credit Party, so long as a Subsidiary that is not a Credit Party or a Credit Party is a recipient.

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Parent or any direct or indirect parent company of the Parent, including in connection with any merger or consolidation;

(c) make any payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, the principal or interest of any Indebtedness incurred prior to the Petition Date (all such Indebtedness, including all loans under the Pre-Petition Credit Agreements and the Receivables Facility, the "**Pre-Petition Indebtedness**"), other than payment to certain creditors set forth in the Approved Budget and pursuant to an order of the Bankruptcy Court in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors); provided that notwithstanding the foregoing, the Credit Parties may make payments under the Receivables Facility in an amount not to exceed the cash collected in respect of receivables invested in the Receivables Subsidiary. Furthermore, no Credit Party will, nor will it permit any of its Subsidiaries, to amend the documents evidence any Pre-Petition Indebtedness other than as set forth in the RSA or the Chapter 11 Plan.

(d) of any Credit Party or any of its Subsidiary, repurchase or other acquisition of Pre-Petition Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(e) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (e) above (other than any exception thereto) being collectively referred to as "**Restricted Payments**").

10.6 Burdensome Agreements. The Parent and the Borrower will not, nor permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of such Credit Party or any of its Subsidiaries to:

(a) (i) pay dividends or make any other distributions to the Parent or any Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits or (ii) pay

any Indebtedness owed to the Parent or any Subsidiary;

(b) make loans or advances to the Parent or any Subsidiary; or

(c) sell, lease or transfer any of its properties or assets to the Parent or any Subsidiary; or

(d) create, incur, assume or suffer to exist any Lien on property of such Person for the benefit of the Lenders with respect to the Obligations under the Credit Documents, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions pursuant to this Agreement or in effect on the Closing Date and listed on Schedule 10.6;

(ii) the Pre-Petition Credit Documents;

(iii) purchase money obligations for property acquired in the ordinary course of business consistent with past practice and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (c) or clause (d) above on the property so acquired to the extent in existence on the Closing Date;

(iv) Requirement of Law or any applicable rule, regulation or order;

(v) [reserved];

(vi) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Parent pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary and restrictions on transfer of assets subject to Permitted Liens;

(vii) (x) secured Indebtedness otherwise permitted to be incurred pursuant to Sections 10.1 and 10.2 that limit the right of the debtor to dispose of the assets securing such Indebtedness and (y) restrictions on transfers of assets subject to Permitted Liens (but, with respect to any such Permitted Lien, only to the extent that such transfer restrictions apply solely to the assets that are the subject of such Permitted Lien);

(viii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and in existence on the Closing Date;

(ix) other Indebtedness, Disqualified Stock or preferred stock of Subsidiaries permitted to be incurred subsequent to the Closing Date pursuant to the provisions of Section 10.1;

(x) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint venture and the Equity Interests issued thereby and in effect on the Closing Date;

(xi) customary provisions contained in leases, sub-leases, licenses, sub-licenses or similar agreements, in each case, entered into in the ordinary course of business and in effect on the Closing Date; and

(xii) restrictions created in connection with the Receivables Facility as it existence on the Closing Date; provided that, any further amendments to the Receivables Facility must be

approved by the Required Lenders (such approval not to be unreasonably withheld or delayed) (which approval may be communicated by email by any Specified Lender Advisor).

10.7 [Reserved].

10.8 [Reserved].

10.9 [Reserved].

10.10 Orders. Notwithstanding anything to the contrary herein, no Credit Party nor any Subsidiary shall use any portion or proceeds of the Loans or the Collateral, or disbursements set forth in the Approved Budget, for payments or for purposes that would violate the terms of the DIP Order.

10.11 [Reserved]

10.12 Insolvency Proceeding Claims. No Credit Party nor any Subsidiary shall incur, create, assume, suffer to exist or permit any other super priority administrative claim which is pari passu with or senior to the claim of any Agent, the Escrow Agent or the Lenders against the Debtors, except as set forth in the DIP Order and the Canadian DIP Recognition Order.

10.13 Bankruptcy Actions. No Credit Party nor any of its Subsidiaries shall seek, consent to, or permit to exist, without the prior written consent of the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) (which consent shall constitute authorization under this Agreement), any order granting authority to take any action that is prohibited by the terms of this Agreement, the DIP Order or the other Credit Documents or refrain from taking any action that is required to be taken by the terms of the DIP Order or any of the other Credit Documents.

10.14 Minimum Actual Liquidity. Commencing after the initial Withdrawal from the Loan Proceeds Account on the Funding Date, the Borrower shall not permit, as of the Friday of each calendar week following the Closing Date, Actual Liquidity to be less than $10,000,000 (subject to Permitted Variances).

10.15 Canadian Pension Plans. No Credit Party in existence on the Closing Date, nor any Subsidiary created after the Closing Date (as permitted hereunder), shall, without the prior written consent of the Required Lenders (which consent may be communicated by any Specified Lender Advisor), commence to participate in a Canadian Defined Benefit Plan.

Section 11. Events of Default

11.1 Events of Default. Notwithstanding the provisions of Section 362 of the Bankruptcy Code to the extent provided in the DIP Order, without notice, application or motion, hearing before, or order of the Bankruptcy Court or the Canadian Bankruptcy Court or any notice to any Credit Party, upon the occurrence of any of the following specified events (each, an "**Event of Default**"):

(a) Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default in the payment when due (or within one day of such due date) of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

(b) Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which

made or deemed made; or

(c) Perfected Security Interest. Any Lien securing any Obligations shall cease to be a perfected, first priority Lien (subject to the Carve Out and other Liens specified in the DIP Order and the CCAA Administration Charge) with respect to any material portion of the Collateral; or

(d) ERISA and Other Employee Benefit Matters. Except to the extent excused by the Bankruptcy Court or as a result of the Chapter 11 Cases, (a) an ERISA Event or a Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States District Court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e), that, when taken together with all other such events or conditions, if any, would reasonably be expected to result in a liability to any Credit Party in excess of $500,000; or

(e) Covenants. Any Credit Party shall (i) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(d)(i), Section 9.5 (solely with respect to the Borrower), Section 9.13, 9.14(d), 9.18, 9.19, 9.20, 9.21, 9.23, 9.24, 9.25, 9.26 or Section 10 or (ii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in clause (i) or otherwise set forth in this Section 11.1) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after delivery of written notice by the Administrative Agent or the Required Lenders; or

(f) [Reserved]; or

(g) [Reserved]; or

(h) Judgments. Solely with respect to pre-petition actions, one or more judgments or decrees shall be entered against any Credit Party or any of the Subsidiaries involving a liability in excess of $1,000,000 in the aggregate for all such judgments and decrees for the Parent and the Subsidiaries (to the extent not covered by insurance or indemnities as to which the applicable creditworthy insurance company has not denied coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 30 days after the entry thereof; or

(i) Change of Control. Other than pursuant to the Chapter 11 Plan, a Change of Control shall occur; or

(j) Bankruptcy Events. The occurrence of any of the following in any of the Chapter 11 Cases or the Canadian Recognition Proceeding:

(i) other than a motion in support of the DIP Order, the bringing of a motion, taking of any action or the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto by any of the Credit Parties in the Chapter 11 Cases: (A) to obtain additional financing under Section 364(c) or Section 364(d) of the Bankruptcy Code or under the CCAA not otherwise permitted pursuant to this Agreement; (B) to grant any Lien other than the Permitted Liens; (C) except as provided in the DIP Order, to use cash collateral of (1) the Administrative Agent and the other Secured Parties under Section 363(c) of the Bankruptcy Code without the prior written consent of the Required Lenders (which approval may be communicated via an email from

any of the Specified Lender Advisors) or (2) the Pre-Petition First Lien Lenders or the Pre-Petition First Lien Agent under Section 363(c) of the Bankruptcy Code without the prior written consents of the "Required Lenders" under the Pre-Petition First Lien Credit Agreement; or (D) to take any other action or actions adverse to the Administrative Agent and Lenders or their rights and remedies hereunder, under any other Credit Documents, or their interest in the Collateral;

(ii) (A) other than in accordance with the RSA, (1) the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by a Credit Party, in each case, that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans and to which the Required Lenders do not consent or (2) if any of the Credit Parties or their Subsidiaries shall seek, support or fail to contest in good faith the filing or confirmation of any such plan or entry of any such order that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans, (B) the entry of any order terminating any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation or disclosure statement attendant thereto (or such an order is sought by any party and is not actively contested by the Credit Parties), or (C) the expiration of any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation;

(iii) the entry of an order in any of the Chapter 11 Cases confirming a plan of reorganization or plan of liquidation that is not in accordance with the RSA or otherwise acceptable to the "Requisite Consenting Creditors" as defined in the RSA in their sole discretion (which acceptance may be communicated via an email from any of the Specified Lender Advisors);

(iv) (x) the entry of an order amending, supplementing, staying, vacating or otherwise modifying the Credit Documents, the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents (including any order in respect of the Required Milestones specified herein) without the written consent of the Required Lenders or the filing by a Credit Party of a motion for reconsideration with respect to the DIP Order, or the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order shall otherwise not be in full force and effect or (y) any Credit Party or any Subsidiary shall fail to comply with the DIP Order, the Cash Management Order or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents, in any material respect;

(v) the Bankruptcy Court's or the Canadian Bankruptcy Court's entry of an order granting relief from the automatic stay under Section 362 of the Bankruptcy Code or the CCAA stay, as applicable, to permit foreclosure or to execute upon or enforce a Lien on any Collateral of a value in excess of $100,000;

(vi) [reserved];

(vii) the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of a trustee or an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Credit Parties;

(viii) (A) the dismissal or termination of any Chapter 11 Case or the Canadian Recognition Proceeding or (B) any Credit Party shall file a motion or other pleading seeking the dismissal of the Chapter 11 Cases under Section 1112 of the Bankruptcy Code or otherwise, or the

termination of the Canadian Recognition Proceeding;

(ix) any Credit Party shall file a motion (without consent of the Required Lenders) seeking, or the Bankruptcy Court or the Canadian Bankruptcy Court shall enter an order granting, relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code or the CCA stay, as applicable (A) to allow any creditor (other than the Administrative Agent) to execute upon or enforce a Lien on any Collateral, (B) approving any settlement or other stipulation not approved by the Required Lenders with any creditor of any Credit Party providing for payments as adequate protection or otherwise to such secured creditor (which approval may be communicated via an email from any of the Specified Lender Advisors) or (C) to permit other actions that would have a Material Adverse Effect on the Debtors or their estates (taken as a whole);

(x) the entry of an order in the Chapter 11 Cases or the Canadian Recognition Proceeding avoiding or requiring the disgorgement of any portion of the payments made on account of the Obligations owing under this Agreement or the other Credit Documents or the Pre-Petition Obligations owing under the Pre-Petition Credit Documents;

(xi) the failure of any Credit Party to perform any of its obligations under the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any order of the Bankruptcy Court approving any Transaction or to perform in any material respect its obligations under any order of the Bankruptcy Court approving bidding procedures;

(xii) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court or the Canadian Bankruptcy Court authorizing any claims or charges, other than in respect of this Agreement and the other Credit Documents, or as otherwise permitted under the applicable Credit Documents or permitted under the DIP Order, entitled to superpriority administrative expense claim status in any Chapter 11 Case pursuant to Section 364(c)(1) of the Bankruptcy Code or superiority pursuant to the CCAA, as applicable, pari passu with or senior to the claims of the Administrative Agent and the Secured Parties under this Agreement and the other Credit Documents, or there shall arise or be granted by the Bankruptcy Court or the Canadian Bankruptcy Court (i) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 or clause (b) of Section 507 of the Bankruptcy Code or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Credit Documents or in the DIP Order or the Canadian DIP Recognition Order then in effect (including the Carve Out and the CCAA Administration Charge);

(xiii) the DIP Order shall cease to create a valid and perfected Lien (which creation and perfection shall not require any further action other than the entry of and terms of the DIP Order) on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders;

(xiv) an order in the Chapter 11 Cases shall be entered (i) charging any of the Collateral under Section 506(c) of the Bankruptcy Code against the Administrative Agent and the Secured Parties, or the "Secured Parties" under either Pre-Petition Credit Agreement, or (ii) limiting the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date or the commencement of other legal proceeding by a Credit Party that are materially adverse to the Administrative Agent, the Secured Parties or their respective rights and remedies under the Credit Documents in any Chapter 11 Cases or inconsistent with the

Credit Documents;

(xv) any order having been entered or granted (or requested, unless actively opposed by the Credit Parties) by either any of the Bankruptcy Court, the Canadian Bankruptcy Court or any other court of competent jurisdiction materially adversely impacting the rights and interests of the Administrative Agent and the Lenders and the other Secured Parties, as determined by the Required Lenders, acting reasonably, without the prior written consent of the Administrative Agent and the Required Lenders;

(xvi) an order of the Bankruptcy Court shall be entered denying or terminating use of cash collateral by the Credit Parties authorized by the DIP Order;

(xvii) if the Final Order does not include a waiver, in form and substance satisfactory to the Administrative Agent and the Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), of (i) the right to surcharge the Collateral under Section 506(c) of the Bankruptcy Code and (ii) any ability to limit the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Pre-Petition Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date;

(xviii) any Credit Party shall challenge, support or encourage a challenge of any payments made to the Administrative Agent, any Lender or any other Secured Party with respect to the Obligations or to the Pre-Petition Agents or the Pre-Petition Lenders with respect to the Pre-Petition Obligations, or without the consent of the Administrative Agent or the "Required Lenders" as defined in the Pre-Petition First Lien Credit Agreement, the filing of any motion by the Credit Parties seeking approval of (or the entry of an order by the Bankruptcy Court or the Canadian Bankruptcy Court approving) adequate protection to any Pre-Petition Agent or lender that is inconsistent with the DIP Order;

(xix) without the Administrative Agent's and the Required Lenders' consent, the entry of any order by the Bankruptcy Court or the Canadian Bankruptcy Court granting, or the filing by any Credit Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court (in each case, other than the DIP Order and the Canadian DIP Recognition Order and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's and the Required Lenders' consent or to obtain any financing under Section 364 of the Bankruptcy Code or the CCAA other than the Credit Documents;

(xx) if, unless otherwise approved by the Administrative Agent and the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors and which approval of the Administrative Agent may be communicated via an email from the Agent Advisors), an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Cases and such order shall not be reversed or vacated within ten days;

(xxi) without Required Lender consent, any Credit Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court seeking (a) to grant or impose, under Section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior or equal to the Collateral Agent's liens and security interests (except as provided in the DIP Order or the Canadian DIP Recognition Order); or (b) to modify or affect any of the rights of the Administrative Agent, the Lenders or any other

Secured Party under the DIP Order, the Canadian DIP Recognition Order, the Credit Documents, and related documents, other than in accordance with the Chapter 11 Plan;

(xxii) any Credit Party or any Subsidiary thereof or any Debtor shall commence any legal proceeding or take any action in support of any matter set forth in this Section 11.1(j) or any other Person shall do so and such application is not contested in good faith by the Credit Parties and the relief requested is granted in an order that is not stayed pending appeal

(xxiii) any Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtors shall occur, or any material damage to or loss of material assets of any Debtor shall occur;

(xxiv) failure of any Credit Party to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to Permitted Variance) and this Agreement;

(xxv) the occurrence of any RSA Termination Event (unless waived in accordance with the terms of the RSA); or

(xxvi) the Canadian DIP Recognition Order shall cease to create the CCAA DIP Lenders Charge (which creation and perfection shall not require any further action other than the entry of and terms of the Canadian DIP Recognition Order) on the Canadian Property or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders.

11.2 Remedies Upon Event of Default.

(a) Subject to the terms of the DIP Order and the Remedies Notice Period, if any Event of Default occurs and is continuing, notwithstanding the provisions of Section 362 of the Bankruptcy Code, and any stay under the CCAA, without any application, motion or notice to, hearing before, or order from the Bankruptcy Court or the Canadian Bankruptcy Court, then, the Administrative Agent, upon the Direction of the Required Lenders (subject to Section 13) shall declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement immediately become due and payable, but without affecting the Collateral Agent's Liens or the Obligations, and the Administrative Agent, upon the request of the Required Lenders (subject to Section 13), shall: (i) terminate, reduce or restrict the right or ability of the Credit Parties to use any cash collateral; (ii) declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable, (iii) subject to the Remedies Notice Period, (A) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Credit Documents or applicable law or (B) take any and all actions described in the DIP Order; and (iv) deliver a Carve Out Trigger Notice.

(b) At any hearing during the Remedies Notice Period to contest the enforcement of remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred, and the Credit Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in way impair or restrict the rights and remedies of the Administrative Agent or the Secured Parties, as set forth in this Agreement, the applicable DIP Order, Canadian DIP Recognition Order or other Credit Documents. Except as expressly provided above in this Article VII, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

11.3 License; Access; Cooperation. Subject to any previously granted licenses, each of the Administrative Agent and the Collateral Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (to the extent permitted under the applicable licenses and without payment of royalty or other compensation to any Person) any or all Intellectual Property of Credit Parties, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral (in each case after the occurrence, and during the continuance, of an Event of Default). Each of the Administrative Agent and the Collateral Agent (together with its agents, representatives and designees) is hereby granted a non-exclusive right to have access to, and a rent free right to use, any and all owned or leased locations (including, without limitation, warehouse locations, distribution centers and store locations) for the purpose of arranging for and effecting the sale or disposition of Collateral, including the production, completion, packaging and other preparation of such Collateral for sale or disposition (it being understood and agreed that each of the Administrative Agent and the Collateral Agent and its representatives (and persons employed on their behalf), may continue to operate, service, maintain, process and sell the Collateral, as well as to engage in bulk sales of Collateral). Upon the occurrence and the continuance of an Event of Default and the exercise by the Administrative Agent or Lenders of their rights and remedies under this Agreement and the other Credit Documents, the Borrower shall assist the Administrative Agent, the Collateral Agent and Lenders in effecting a sale or other disposition of the Collateral upon such terms as are reasonably acceptable to the Administrative Agent and Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

Section 12. Administrative Agent.

12.1 Appointment.

(a) Each Lender hereby irrevocably designates and appoints Wilmington Savings Fund Society, FSB as Administrative Agent and Escrow Agent hereunder and under the other Credit Documents, as applicable, and irrevocably authorizes the Administrative Agent and the Escrow Agent, each in its respective capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent and the Escrow Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Sections 12.1, 12.9, 12.11 and 12.12 with respect to the Parent) are solely for the benefit of the Agents, the Escrow Agent and the Lenders, and none of the Parent, the Borrower or any other Credit Party shall have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement or any other Credit Document, neither Administrative Agent nor the Escrow Agent will have any duties or responsibilities, except those expressly set forth herein or in the Escrow Agreement, as applicable, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent or the Escrow Agent. In performing its functions and duties hereunder, each Agent and the Escrow Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Credit Party or any of their respective Subsidiaries.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding

any provision to the contrary elsewhere in this Agreement or any other Credit Document, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent and the Lenders and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each Lender hereby irrevocably authorizes the Administrative Agent, based upon the instruction of the Required Lenders (but subject in all respects to the RSA), to credit bid and purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted by the Administrative Agent or the Collateral Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC (or any equivalent provision of the UCC), and the PPSA, at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code, or under Canadian Bankruptcy and Insolvency Law, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Requirements of Law. In no event shall the Agent be obligated to take title to or possession of Collateral in its own name, or otherwise in a form or manner that may, in its reasonable judgment, expose it to liability; provided that if any Agent declines to take title to or possession of Collateral because it exposes it to liability, it will promptly notify the Specified Lender Advisors thereof.

(d) Each Lender irrevocably appoints each other Lender as its agent and bailee for the purpose of perfecting Liens (whether pursuant to Section 8-301(a)(2) of the UCC or otherwise), for the benefit of the Secured Parties, in assets in which, in accordance with the UCC and the PPSA or any other applicable Requirement of Law a security interest can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly following the Administrative Agent's request therefor, shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

12.2 Delegation of Duties. The Agents may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents, subagents or attorneys-in-fact selected by it in the absence of its gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

12.3 Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the creation, perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of any Credit Party to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof. The Collateral Agent shall not be under any obligation

to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party. The rights, privileges, protections, immunities and benefits given to each Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by such Agent in each Credit Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as such Agent in each of its capacities hereunder and in each of its capacities under any Credit Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Credit Document or related document, as the case may be. Notwithstanding anything contained in this Agreement to the contrary, neither Agent shall be under any obligation (i) to monitor, determine or verify the unavailability or cessation of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any date on which such rate may be required to be transitions or replaced in accordance with the terms of the Credit Documents, applicable law or otherwise, (ii) to select, determine or designate any replacement to such rate, or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate have been satisfied, (iii) to select, determine or designate any modifier to any replacement or successor index, or (iv) to determine whether or what any amendments to this Agreement or the other Credit Documents are necessary or advisable, if any, in connection with any of the foregoing. Neither Agent shall be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Agreement or any other Credit Document as a result of the unavailability of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), including as a result of any inability, delay, error or inaccuracy on the part of any other party, including without limitation the Required Lenders or the Credit Parties, in providing any direction, instruction, notice or information required or contemplated by the terms of this Agreement and reasonably required for the performance of such duties. Neither Agent shall have any liability for any interest rate published by any publication that is the source for determining the interest rates of the Loans, including but not limited to Bloomberg (or any successor source) and the Reuters Screen (or any successor source), or for any rates compiled by the ICE Benchmark Administration or any successor thereto, or for any rates published on any publicly available source, including without limitation the Federal Reserve Bank of New York's Website, or in any of the foregoing cases for any delay, error or inaccuracy in the publication of any such rates, or for any subsequent correction or adjustment thereto.

12.4 Reliance by Agents. The Agents shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including the Agent Advisors, the Lender Advisors, the Specified Lender Advisors and counsel to the Escrow Agent), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or a Direction of the Required Lender or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders or a Direction of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans; provided that the Administrative Agent and the Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or applicable law. Notwithstanding anything contained in this Credit Agreement or the other Credit Documents to the contrary, without limiting any rights,

protections, immunities or indemnities afforded to the Administrative Agent and the Collateral Agent hereunder (including without limitation this Section 12), phrases such as "satisfactory to the [Administrative] [Collateral] Agent," "approved by the [Administrative] [Collateral] Agent," "acceptable to the [Administrative] [Collateral] Agent," "as determined by the [Administrative] [Collateral] Agent," "designed by the [Administrative][Collateral] Agent", "specified by the [Administrative][Collateral] Agent", "in the [Administrative] [Collateral] Agent's discretion," "selected by the [Administrative] [Collateral] Agent," "elected by the [Administrative] [Collateral] Agent," "requested by the [Administrative] [Collateral] Agent," "in the opinion of the [Administrative] [Collateral] Agent," and phrases of similar import that authorize or permit the Administrative Agent or the Collateral Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Administrative Agent or Collateral Agent, as applicable, receiving a Direction of the Required Lenders or other written direction from the Lenders or Required Lenders, as applicable, to take such action or to exercise such rights.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders, the Escrow Agent and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable.

12.6 Non-Reliance on Administrative Agent, Collateral Agent, and Other Lenders. Each Lender expressly acknowledges that no Agent nor the Escrow Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent or the Escrow Agent hereinafter taken, including any review of the affairs of any Credit Party, shall be deemed to constitute any representation or warranty by any Agent or the Escrow Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower and each other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any of the Credit Parties. Except for notices, reports, and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent nor the Escrow Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Credit Party that may come into the possession of any Agent or the Escrow Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7 Indemnification. The Lenders agree to severally indemnify each Agent and the Escrow Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Total Credit

Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent or the Escrow Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the any Agent or the Escrow Agent under or in connection with any of the foregoing; provided that no Lender shall be liable to an Agent or the Escrow Agent for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction; provided, further, that no action taken by any Agent or the Escrow Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent and the Escrow Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent or the Escrow Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent or the Escrow Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. If any indemnity furnished to any Agent or the Escrow Agent for any purpose shall, in the opinion of such Agent or the Escrow Agent, as applicable, be insufficient or become impaired, such Agent or the Escrow Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided that in no event shall this sentence require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's pro rata portion thereof; and provided, further, this sentence shall not be deemed to require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder. The indemnity provided to each Agent and the Escrow Agent under this Section 12.7 shall also apply to such Agent's and the Escrow Agent's respective Affiliates, directors, officers, members, partners, representatives, assigns, controlling persons, employees, trustees, investment advisors and agents and successors.

12.8 Agents in Their Individual Capacities. If applicable, the agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. Each Agent, the Escrow Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Credit Party as though such Agent or the Escrow Agent were not an Agent or the Escrow Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent and the Escrow Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may

exercise the same as though it were not an Agent or the Escrow Agent, and the terms Lender and Lenders shall include each Agent and the Escrow Agent in its individual capacity.

12.9 Successor Agents.

(a) Each Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right (subject to the consent of the Borrower (not to be unreasonably withheld, delayed or conditioned) so long as no Event of Default is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (the "**Resignation Effective Date**"), then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above (including receipt of the Borrower's consent); provided that if the any Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice.

(b) [Reserved].

(c) With effect from the Resignation Effective Date, (1) the retiring or removed agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the retiring Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as the Administrative Agent or the Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section 12.9). Except as provided above, any resignation of Wilmington Savings Fund Society, FSB as the Administrative Agent pursuant to this Section 12.9 shall also constitute the resignation of Wilmington Savings Fund Society, FSB as the Collateral Agent and the Escrow Agent, subject to the terms of the Escrow Agreement. The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including Section 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender under any Credit Document an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of

a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective) or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Credit Party and without limiting the obligation of any applicable Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due to the Administrative Agent under this Section 12.10. The agreements in Section 12.10 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

12.11 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Maturity Date and Full Payment of all Obligations (except for contingent indemnification obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, (v) that constitutes Excluded Property or (vi) if approved, authorized or ratified in writing in accordance with Section 13.1; (b) release any Guarantor from its obligations under the Guarantee if such Person ceases to be a Credit Party (or becomes an Excluded Subsidiary) as a result of a transaction or designation permitted hereunder or (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (vi) (solely with respect to Section 10.1(d)), and (ix) of the definition of Permitted Lien. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Credit Parties, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, the Credit Parties or any substantial part of its property, or otherwise, all as though such payment had not been made.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrower under this Section 12.11, irrespective of any discharge of the Borrower's obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrower to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrower to the Collateral Agent under this Section 12.11 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and

payable by the Borrower to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.11.

Prior to taking any action or executing any document pursuant to this Section 12.11 or Section 12.12, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by a Financial Officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied. The Administrative Agent and the Collateral Agent shall not be liable for executing any documents or instruments pursuant to Section 12.11 or 12.12 to the extent the Collateral Agent did so upon the Direction of the Required Lenders (which consent may be provided via email by any of the Specified Lender Advisors).

12.12 Right to Realize on Collateral and Enforce Guarantee.

(a) Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrower (on behalf of itself and each other Credit Party), the Administrative Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Credit Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms hereof and thereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms thereof, and (ii) in the event of a foreclosure or similar enforcement action by the Administrative Agent or the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code), the Administrative Agent or the Collateral Agent (or any Lender, except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code) may, upon instruction from the Required Lenders, be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent or the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent at such sale or other disposition.

(b) Release of Collateral and Guarantees, Termination of Credit Documents.

(i) Notwithstanding anything to the contrary contained herein or any other Credit Document, when all Obligations have been Paid in Full and all Commitments have terminated or expired, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any other Secured Party) take such actions as shall be required or reasonably requested to release its security interest in all Collateral, and to release all guarantee obligations provided for in any Credit Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Credit Party, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, any Credit Party or any substantial part of its property, or otherwise, all as though such payment had

not been made.

(ii) The Agents shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(iii) In case of the pendency of any proceeding under the Bankruptcy Code or any other Debtor Relief Laws relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(A) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(B) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due the Administrative Agent under this Agreement) allowed in such judicial proceeding; and

(C) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

(D) and any custodian, administrator, administrative receiver, receiver, receiver and manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under this Agreement out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

(iv) Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, plan of liquidation, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

12.13 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Credit Party or any other obligor under any of the Credit Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures or cause any of the foregoing (through Affiliates or otherwise), with respect to any Collateral or any other property of any such Credit Party, without the prior written consent of the Administrative Agent (at the Direction of the Required Lenders). Without limiting the foregoing, each Lender agrees that, except as otherwise provided in any Credit Documents or with the written consent of the Administrative Agent (at the Direction of the Required Lenders), it will not take any enforcement action, accelerate Obligations under any Credit Documents, or exercise any right that it might otherwise have under applicable Requirement of Law to credit bid or purchase any portion of the Collateral at any sale or foreclosure thereof referred to in Section 12.1; provided that nothing contained in this Section shall affect any Lender's right to credit bid its pro rata share of the Obligations pursuant to Section 363(k) of the Bankruptcy Code.

12.14 Carve Out Account. In connection with the DIP Order, the Administrative Agent is hereby authorized and directed to establish and maintain a single segregated non-interest bearing trust account which shall be designated as the "Pre-Carve Out Trigger Notice Reserve Account" and a single segregated non-interest bearing trust account which shall be designated as the "Post-Carve Out Trigger Notice Reserve Account" (such accounts, collectively, the "**Carve Out Accounts**"). Funds will be deposited into and remitted from the Carve Out Accounts in accordance with and pursuant to the terms of the DIP Order.

Section 13. Miscellaneous

13.1 Amendments, Waivers, and Releases.

(a) (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. Other than with respect to any amendment, modification or waiver contemplated in the proviso to clause (i) below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (A) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (B) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or the Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (x) (i) forgive or reduce any portion of any Loan or extend the scheduled maturity date of any Loan or reduce the stated rate of interest, premium or fees (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion thereof, or extend the date for the payment of any interest,

premium or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or amend or modify any provisions of Sections 5.3(a) (with respect to the ratable allocation of any payments only) 13.9(a) or 13.20, or make any Loan, interest, Fee or other amount payable in any currency other than expressly provided herein, in each case without the written consent of each Lender directly and adversely affected thereby; provided that a waiver of any condition precedent in Sections 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial covenant definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium, interest or fees or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, in each case for purposes of this clause (i), or (ii) consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3), in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of this Agreement or any other Credit Document without the written consent of each Agent or the Escrow Agent in a manner that directly and adversely affects such Agent or the Escrow Agent, as applicable, or (iv) [reserved], or (v) [reserved], or (vi) [reserved], or (vii) release all or substantially all of the Guarantors under the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (viii) [reserved], or (ix) reduce the percentages specified in the definitions of the terms Required Lenders or amend, modify or waive any provision of this Section 13.1 that has the effect of decreasing the number of Lenders that must approve any amendment, modification or waiver, without the written consent of each Lender or (y) notwithstanding anything to the contrary in clause (x), (i) extend the final expiration date of any Lender's Commitment or (ii) increase the aggregate amount of the Commitments of any Lender, in each case, without the written consent of such Lender.

(b) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (x) that the Commitment of such Lender may not be increased or extended without the consent of such Lender, (y) for any such amendment, waiver or consent that treats such Defaulting Lender disproportionately from the other Lenders (other than because of its status as a Defaulting Lender), and (z) that the principal amount of any Loan owed to such Lender may not be decreased or reduced without the consent of such Lender.

(c) [Reserved].

(d) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Parent, the Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Parent, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

(e) [Reserved].

(f) [Reserved].

(g) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement, (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents, and (vii) if such assets constitute Excluded Property. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender. Prior to taking any action or executing any document pursuant to this section, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied.

(h) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrower and the Administrative Agent.

(i) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.1) or any other Credit Document to the contrary, (i) [reserved]; (ii) [reserved]; (iii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iv) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor) and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent (in each case acting at the Direction of the Required Lenders in their sole discretion), to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required

by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with any applicable Requirement of Law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent, the Required Lenders and the Borrower) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(j) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Required Lenders may, in their sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.12, 9.13 and 9.14 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Borrower and the other Credit Parties by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Documents.

13.2 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Parent, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Parent, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9 and 5.1 shall not be effective until received.

13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5 Payment of Expenses; Indemnification.

(a) The Borrower agrees to pay promptly following demand (and in any event as required by the DIP Order and/or the Canadian DIP Recognition Order), without the requirement of prior Bankruptcy Court approval and whether incurred before or after the Petition Date, all reasonable and documented out-of-pocket legal, accounting, appraisal, consulting, financial advisory and other fees, costs and expenses (including, without limitation, in respect of the Specified Lender Advisors, the Crossholder Lender Advisors, the Lender Advisors and the Agent Advisors) incurred by the Agents, the Ad Hoc Group of Lenders, the Ad Hoc Group of Crossholder Lenders and their respective Affiliates in connection with the negotiation, preparation and administration of the Credit Documents, the Interim Order, the Final Order, the Canadian DIP Recognition Order or incurred in connection with:

(i) amendment, modification or waiver of, consent with respect to, or termination of, any of the Credit Documents or advice in connection with the syndication and administration of the Loans made pursuant hereto, including any Withdrawal, or its rights hereunder or thereunder

(ii) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agents, any Lender, the Borrower or any other Person and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the Credit Documents, the Pre-Petition Credit Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case or proceeding commenced by or against any Credit Party or any other Person that may be obligated to the Agents or the Lenders by virtue of the Credit Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; provided that no Person shall be entitled to reimbursement under this clause (ii) in respect of any litigation, contest, dispute, suit, proceeding or action to the extent any of the foregoing results from such Person's gross negligence or willful misconduct (as determined by a final non-appealable judgment of a court of competent jurisdiction);

(iii) any attempt to enforce or prosecute any rights or remedies of the Agents or any Lender against any or all of the Credit Parties or any other Person that may be obligated to the Agents or any Lender by virtue of any of the Credit Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans prior to or during the pendency of one or more Events of Default;

(iv) any work-out or restructuring of the Obligations prior to or during the pendency of one or more Events of Default;

(v) [reserved];

(vi) the obtaining of approval of the Credit Documents by the Bankruptcy Court or any other court;

(vii) the preparation and review of pleadings, documents, orders and reports related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, attendance at meetings, court hearings or conferences related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, and general monitoring of the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases and any action, arbitration or other proceeding (whether instituted by or against the Agents, any Lender, any Credit Party, any representative of creditors of an Credit Party or any other Person) in any way relating to any

Collateral (including the validity, perfection, priority or avoidability of the Liens with respect to any Collateral), the Pre-Petition Credit Documents, Credit Documents or the Obligations, including any lender liability or other claims;

(viii) efforts to (1) monitor the Loans or any of the other Obligations, (2) evaluate, observe or assess any of the Credit Parties or their respective affairs, (3) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral or (4) settle or otherwise satisfy any charges or Liens with respect to any Collateral;

(ix) any lien searches or request for information listing financing statements or liens filed or searches conducted to confirm receipt and due filing of financing statements and security interests in all or a portion of the Collateral; and

(x) including, as to each of clauses (i) through (ix) above, all reasonable and documented professional and service providers' fees arising from such services and other advice, assistance or other representation, including those in connection with any appellate proceedings, and all reasonable and documented out-of-pocket expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 13.5, all of which shall be payable by Borrower to the Agents or the Lenders, as applicable.

Without limiting the generality of the foregoing, such reasonable expenses, costs, charges and fees may include: reasonable and documented out-of-pocket fees, costs and expenses of accountants, sales consultants, financial advisors, the Agent Advisors, any Specified Lender Advisors, any Lender Advisor, environmental advisors, appraisers, investment bankers, management and other consultants; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; air express charges, and reasonable expenses for travel, lodging and food paid or incurred in connection with the performance of such legal, professional or other advisory services; provided that, notwithstanding anything to the contrary contained in this Section 13.5(a) or in any other Credit Document, each Credit Party reaffirms its obligation to pay the fees as set forth in the Financial Advisor Engagement Letters.

(b) The Borrower (on behalf of itself and the other Credit Parties) agrees to pay, indemnify and hold harmless each Lender, each Agent and their respective Related Parties (without duplication) (the "**Indemnified Persons**") from and against any and all losses, claims, damages, liabilities, obligations, demands, actions, judgments, suits, costs, expenses, disbursements or penalties of any kind or nature whatsoever (and the reasonable and documented fees, expenses, disbursements and other charges of any Specified Lender Advisors, any Lender Advisors and the Agent Advisors owed pursuant to Section 13.5(a)) of any such Indemnified Person arising out of or relating to any action, claim, litigation, investigation or other proceeding (regardless of whether such Indemnified Person is a party thereto), arising out of any Commitment, Loan or the use or proposed use of the proceeds therefrom, arising out of, or with respect to the Transactions or to the execution, delivery, performance, administration and enforcement of this Agreement, the other Credit Documents and any such other documents, agreements, letters or instruments delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, including any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law or any actual or alleged presence, Release or threatened Release of Hazardous Materials attributable to any Credit Party or any of its Subsidiaries (all the foregoing in this clause (iii), regardless of whether brought by any Credit Party, any of its subsidiaries or any other Person collectively, the "**Indemnified Liabilities**"); provided that the Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from (i) the gross negligence, bad faith or willful misconduct of such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, (ii) a material

breach of the obligations of such Indemnified Person (other than with respect to each Agent) or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (iii) any proceeding between and among Indemnified Persons that does not involve an act or omission by any Credit Party or any of their respective Subsidiaries; provided the Agents, to the extent acting in their capacity as such, shall remain indemnified in respect of such proceeding, to the extent that the exception set forth in the immediately preceding clause (i) of the immediately preceding proviso does not apply to such Agent at such time. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(c) Each Indemnified Person agrees (x) that the Borrower shall have no obligation to reimburse such Indemnified Person for fees and expenses and (y) to return and refund any and all amounts paid by the Borrower pursuant to this Section 13.5, in the case of each of clauses (x) and (y), to the extent such Indemnified Person is not entitled to payment of such amounts in accordance with the terms of the Credit Documentation.

(d) No Credit Party or Indemnified Person (or any Related Party of an Indemnified Person) shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that the foregoing shall not limit the Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.5(a) or under any other provision of this Agreement or any of the other Credit Agreement Documents. No Indemnified Person (or any Related Party of an Indemnified Person) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) All amounts reimbursable by the Borrower under this Section 13.5 shall constitute Obligations secured by the Collateral. The agreements in this Section 13.5 shall survive the termination of the Commitments and repayment of all other Obligations. All amounts due under this Section 13.5 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto. If the Borrower fail to pay when due any amounts payable by it hereunder or under any Credit Document, such amount may be paid on behalf of the Borrower by the Administrative Agent in its discretion by charging any loan account(s) of the Borrower, without notice to or consent from the Borrower, and any amounts so paid shall constitute Obligations hereunder.

13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby,

the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below and Section 13.7, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of

(A) the Parent; provided that no consent of the Borrower shall be required for (1) an assignment Loans or Commitments of to a Lender, an Affiliate of a Lender, or an Approved Fund or (2) an assignment of Loans or Commitments to any assignee if an Event of Default has occurred and is continuing or (3) so long as made in accordance with the RSA; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

The Parent's consent shall be deemed to have been given if the Borrower has not responded within four Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 in the case of Term Loans (and shall, in each case be in an integral multiple thereof), unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld, delayed or conditioned) or, if less, the assignment constitutes all of the applicable Lender's Term Loans; provided that no such consent of the Borrower shall be required if an Event of Default under Section 11.1(a) has occurred and is continuing; provided, further, that contemporaneous assignments by a Lender and its Affiliates or Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above (and simultaneous assignments to or by two or more Related Funds shall be treated as one assignment), if any;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of the Term Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic

settlement system or other method reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "**Administrative Questionnaire**") and applicable tax forms (as required under Section 5.4(e)); and

(E) any assignment to an Affiliated Lender (other than an Affiliated Institutional Lender) shall also be subject to the requirements of Section 13.6(h); and

(F) such assignment shall be permitted by, and in accordance with, the RSA.

For the avoidance of doubt, the Administrative Agent bears no responsibility for tracking or monitoring assignments to or participations by any Affiliated Lender.

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(v) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and the other Credit Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 3.5, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6. For the avoidance of doubt, in case of an assignment to a new Lender pursuant to this Section 13.6, (i) the Administrative Agent, the new Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the new Lender been an original Lender signatory to this Agreement with the rights and/or obligations acquired or assumed by it as a result of the assignment and to the extent of the assignment the assigning Lender shall each be released from further obligations under the Credit Documents and (ii) the benefit of each Security Document shall be maintained in favor of the new Lender.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans (and stated interest amounts) owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent, the Administrative Agent and its Affiliates and, with respect to itself, any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Borrower hereby designates the Administrative Agent to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 13.6(b)(iv). This Section 13.6(b)(iv) shall

be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury Regulations (or any other relevant or successor provisions of the Code or of such Treasury Regulations).

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (as required under Section 5.4(e) unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause (b)(v).

(c) (i) Any Lender may, without the consent of, or notice to the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (other than (x) a natural person, (y) any Credit Party or any of their Subsidiaries and (z) [reserved] (each, a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (i) and (vii) of the third proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11, 3.5, and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4) (it being agreed that any documentation required under Section 5.4(e) shall be provided to the participating Lender)). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.9(b) as though it were a Lender; provided such Participant shall be subject to Section 13.9(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than the applicable Lender would have been entitled to receive absent the sale of such the participation sold to such Participant, except to the extent such entitlement to a greater payment results from a Change in Law after the sale of the participations takes place. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) except to the extent that such disclosure is necessary in connection with a tax audit or other proceeding to establish that such commitment, loan, or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(d) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, or other central bank having jurisdiction over such Lender, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "**Transferee**") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPV**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other Person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) subject to Section 13.16, disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement but subject to the following sentence, each SPV shall be entitled to the benefits of Sections 2.10, 2.11, 3.5 and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender

and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4 (it being agreed that any documentation required under Section 5.4(e) shall be provided to the Granting Lender)). Notwithstanding the prior sentence, an SPV shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than its Granting Lender would have been entitled to receive absent the grant to such SPV, unless such grant to such SPV is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

(h) Notwithstanding anything to the contrary contained herein (and so long as no Event of Default is then continuing), (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender; provided that:

(i) [reserved];

(ii) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (I) attend or participate in (including, in each case, by telephone) any meeting (including "Lender only" meetings) or discussions (or portion thereof) among the Administrative Agent or any Lender at which representatives of the Borrower are not then present, (II) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders or any other material which is "Lender only", except to the extent such information or materials have been made available to the Borrower or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Section 2) or receive any advice of counsel to the Administrative Agent or (III) make any challenge to the Administrative Agent's or any other Lender's attorney-client privilege on the basis of its status as a Lender; and

(B) except with respect to any amendment, modification, waiver, consent or other action (I) in Section 13.1 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (II) that alters an Affiliated Lender's pro rata share of any payments given to all Lenders, or (III) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and, in the case of a plan of reorganization that does not affect the Affiliated Lender in a manner that is materially adverse to such Affiliated Lender relative to other Lenders, shall be deemed to have voted its interest in the Term Loans in the same proportion as the other Lenders) (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph); and

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders may not exceed 25% of the aggregate principal amount of all Term Loans outstanding at the time of such purchase.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders. None of the Borrower, the Parent, any other Subsidiary of the Parent or any Affiliated Lender shall be required to make any representation that it is not in possession of information which is not publicly available and/or material with respect to the Parent, the Borrower and their respective Subsidiaries or their respective securities for purposes of U.S. federal and state securities laws and all parties to the relevant transactions shall render customary "big boy" disclaimer letters.

(i) Notwithstanding anything to the contrary contained herein, the Lenders hereto on the Funding Date may assign all or a portion of its rights and obligations under this Agreement in respect of the Term Loans on the Funding Date to an Affiliated Lender or any Pre-Petition Lender (or any Affiliated Lender thereof) in connection with the syndication of the Term Loans contemplated in the RSA.

13.7 [Reserved]

13.8 Replacement of Lenders Under Certain Circumstances.

(a) The Borrower, at its cost and expense (which, for the avoidance of doubt, may be shared with the replacement institution with such institution's consent), shall be permitted to replace any Lender, and in the case of a Lender repay all Obligations of the Borrower due and owing to such Lender relating to the Loans that (a) requests reimbursement for amounts owing pursuant to Sections 2.10 or 5.4, (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, or (c) becomes a Defaulting Lender, with a replacement bank or other financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts pursuant to Sections 2.10, 2.11, 5.4 or 13.5, as the case may be, owing to such replaced Lender prior to the date of replacement, (iv) the replacement bank or institution, if not already a Lender, an Affiliate of the Lender, an Affiliated Lender or Approved Fund, and the terms and conditions of such replacement, shall be satisfactory to the Required Lenders, (v) the replacement bank or institution, if not already a Lender shall be subject to the provisions of Section 13.6(a), (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that unless otherwise agreed the Borrower shall be obligated to pay the registration and processing fee referred to therein), and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, any Agent, the Escrow Agent or any other Lender shall have against the replaced Lender. Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 13.7 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

13.9 Adjustments; Set-off. Subject to Section 12.13, the Carve Out and the CCAA Administration Charge,

(a) Except as contemplated in Section 13.6 or elsewhere herein, if any Lender (a **"Benefited Lender**") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(e), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders;

provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) Subject to the DIP Order, after the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final) (other than payroll, trust, tax, fiduciary, and petty cash accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify the Credit Parties and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.10 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

13.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13.12 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Agents, the Escrow Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrower, the other Credit Parties, any Agent, the Escrow Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents. To the extent there are any inconsistencies between the terms of this Agreement or any Credit Document and the DIP Order, the provisions of the DIP Order shall govern.

13.13 GOVERNING LAW; CONSENT TO SERVICE OF PROCESS.

(a) THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THE LAW OF THE STATE OF NEW YORK IS SUPERSEDED BY THE BANKRUPTCY CODE.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT SHALL BE BROUGHT IN THE BANKRUPTCY COURT, AND, IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM) JURISDICTION, IN THE COURTS OF THE STATE OF NEW YORK AND THE COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE LOCATED IN NEW YORK COUNTY, AND APPELLATE COURTS FROM ANY THEREOF, AND, BY

EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS. EACH PARTY HERETO HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF THE BANKRUPTCY COURT AND IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE AGENT AT ITS ADDRESS FOR NOTICES AS SET FORTH HEREIN. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY OTHER PARTY IN ANY OTHER JURISDICTION. EACH OF THE PARTIES HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN SUCH COURT AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS.

13.14 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution, and delivery of this (a) it has been advised by counsel in the negotiation, execution, and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower and the other Credit Parties, on the one hand, and the Administrative Agent, the Lenders, the other Agents and the Escrow Agent on the other hand, and the Borrower and the other Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof);

(i) in connection with the process leading to such transaction, each of the Administrative Agent, the other Agents and the Escrow Agent, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees, or any other Person;

(ii) neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, other Agents, the Escrow Agent or any Lender has advised or is currently advising the Borrower, the

other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent, other Agents, the Escrow Agent nor any Lender has any obligation to the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents;

(iii) the Administrative Agent, each other Agent, the Escrow Agent, each Lender and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and their Affiliates, and neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and

(iv) neither the Administrative Agent, any other Agent, the Escrow Agent any Lender nor any of their respective Affiliates has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby agrees (on behalf of itself and the other Credit Parties) that it will not claim that any Agent or the Escrow Agent owes a fiduciary or similar duty to the Credit Parties in connection with the Transactions contemplated hereby and waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, any other Agent, the Escrow Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

13.15 WAIVERS OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.16 Confidentiality. The Administrative Agent, each other Agent and each Lender (collectively, the "**Restricted Persons**" and, each a "**Restricted Person**") shall treat confidentially all non-public information provided to any Restricted Person by or on behalf of any Credit Party hereunder with respect to such Credit Party or any of its Subsidiaries and their businesses in connection with such Restricted Person's evaluation of whether to become a Lender hereunder or obtained by such Restricted Person pursuant to the requirements of this Agreement ("**Confidential Information**") and shall not publish, disclose or otherwise divulge such Confidential Information; provided that nothing herein shall prevent any Restricted Person from disclosing any such Confidential Information (a) pursuant to the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by applicable law, rule or regulation or compulsory legal process (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (b) upon the request or demand of any regulatory authority having jurisdiction over such Restricted Person or any of its Affiliates (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority) to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (c) to the extent that such Confidential Information becomes

publicly available other than by reason of improper disclosure by such Restricted Person or any of its affiliates or any related parties thereto in violation of any confidentiality obligations owing under this Section 13.16, (d) to the extent that such Confidential Information is received by such Restricted Person from a third party that is not, to such Restricted Person's knowledge, subject to confidentiality obligations owing to any Credit Party or any of their respective subsidiaries or affiliates, (e) to the extent that such Confidential Information was already in the possession of the Restricted Persons prior to any duty or other undertaking of confidentiality or is independently developed by the Restricted Persons without the use of such Confidential Information, (f) to such Restricted Person's affiliates and to its and their respective officers, directors, partners, employees, legal counsel, independent auditors, and other experts or agents who need to know such Confidential Information in connection with providing the Loans or action as an Agent hereunder and who are informed of the confidential nature of such Confidential Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) (with each such Restricted Person, to the extent within its control, responsible for such person's compliance with this paragraph), (g) to potential or prospective Lenders, hedge providers, participants or assignees, in each case who agree (pursuant to customary syndication practice) to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16); provided that (i) the disclosure of any such Confidential Information to any Lenders, hedge providers or prospective Lenders, hedge providers or participants or prospective participants referred to above shall be made subject to the acknowledgment and acceptance by such Lender, hedge provider or prospective Lender or participant or prospective participant that such Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) in accordance with the standard syndication processes of such Restricted Person or customary market standards for dissemination of such type of information, which shall in any event require "click through" or other affirmative actions on the part of recipient to access such Confidential Information and (ii) [reserved], (h) for purposes of establishing a "due diligence" defense, or (i) to rating agencies in connection with obtaining ratings for the Borrower and the DIP Facility to the extent such rating agencies are subject to customary confidentiality obligations of professional practice or agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16). Notwithstanding the foregoing, (i) Confidential Information shall not include, with respect to any Person, information available to it or its Affiliates on a non-confidential basis from a source other than the Parent, its Subsidiaries or their respective Affiliates, (ii) the Administrative Agent shall not be responsible for compliance with this Section 13.16 by any other Restricted Person (other than its officers, directors or employees), (iii) in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Parent or any of its Subsidiaries, and (iv) each Agent and each Lender may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and the other Credit Documents.

13.17 Direct Website Communications. Each of the Parent and the Borrower may, at their option, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial, and other reports, certificates, and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded

communications being referred to herein collectively as "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Credit Parties, the Administrative Agent, any other Agent, the Escrow Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

The Agents agree that the receipt of the Communications by any Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to such Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(a) The Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "**Platform**"), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(b) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY THE CREDIT PARTIES (THE "**BORROWER MATERIALS**") OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Related Parties (collectively, the "**Agent Parties**" and each an "**Agent Party**") have any liability to the Borrower, any Lender, or any other Person for losses, claims, damages, liabilities, or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or such Agent's transmission of Borrower Materials through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties' (other than any trustee or advisor)) gross negligence, bad faith or willful misconduct as determined in the final non-appealable judgment of a court of competent jurisdiction.

(c) The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to the Parent, the Borrower, the Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrower has indicated contains only publicly available information with

respect to the Borrower may be posted on that portion of the Platform designated for such public-side Lenders. If the Borrower has not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Credit Parties and their securities. Notwithstanding the foregoing, the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information; provided, however, that, the following documents shall be deemed to be marked "PUBLIC," unless the Borrower notifies the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Credit Documents, (2) any notification of changes in the terms of the DIP Facility and (3) all financial statements and certificates delivered pursuant to Sections 9.1(b) and (d).

13.18 USA PATRIOT Act. Each Agent, the Escrow Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**"), it is required to obtain, verify, and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Agent, the Escrow Agent and such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with its normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with its normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate joint and several obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

13.20 Payments Set Aside. To the extent that any payment by or on behalf of the Parent or the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, receiver and manager or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

13.21 No Fiduciary Duty. Each Agent, the Escrow Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that

conflict with those of the Credit Parties, their stockholders and/or their affiliates. Each Credit Party agrees that nothing in the Credit Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Credit Party, its stockholders or its affiliates, on the other. The Credit Parties acknowledge and agree that (i) the transactions contemplated by the Credit Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Credit Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Credit Party, its stockholders or its Affiliates on other matters) or any other obligation to any Credit Party except the obligations expressly set forth in the Credit Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Credit Party, its management, stockholders or creditors. Each Credit Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, in connection with such transaction or the process leading thereto.

13.22 Canadian Anti-Money Laundering. The Borrower acknowledges that, pursuant to AML Legislation, the Agents, the Escrow Agent and the Lenders may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any of the Agents, the Escrow Agent or the Lenders, or any prospective assignee or participant of any of the Agents, the Escrow Agent or the Lenders, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If any of the Agents or the Escrow Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then such Agent or the Escrow Agent, as applicable:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and such Agent within the meaning of applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that none of the Agents nor the Escrow Agent has any obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, nor to confirm the completeness or accuracy of any information any of the Agents or the Escrow Agent obtains from the Borrower or any such authorized signatory in doing so.

13.23 [Reserved].

13.24 Acknowledgement and Consent to Bail-In of any Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Bank

that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of a Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by a Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Bank that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any Resolution Authority.

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IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

POINTWELL LIMITED,
as the Parent

By: _____
Name:
Title:

SKILLSOFT CORPORATION,
as the Borrower

By: _____
Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent, Escrow Agent and Collateral Agent

By: _____

Name:
Title:

_____,
as Lender

By: _____

Name:
Title:

Exhibit B

Initial Approved Budget

Project Study
Global Consolidated
Initial Approved Budget

Week Number	1	2	3	4	5	6	7	8	9	10
Week Ending	06/12/20	06/19/20	06/26/20	07/03/20	07/10/20	07/17/20	07/24/20	07/31/20	08/07/20	08/14/20
Operating Forecast										
Cash Receipts	7,366,129	7,033,970	9,417,178	7,208,216	4,714,145	5,963,146	4,981,788	9,264,077	6,709,218	6,178,481
Operational Disbursements										
Compensation & Benefits	(8,648,467)	(3,199,443)	(6,162,365)	(2,680,099)	(669,800)	(5,907,556)	(2,709,583)	(7,324,246)	(1,146,634)	(5,919,015)
Rent & Utilities	(273,285)	(205,510)	(187,733)	(422,550)	(273,285)	-	(55,510)	(187,733)	(420,385)	(273,285)
Other Operating Disbursements	(1,461,745)	(3,560,212)	(3,531,658)	(8,717,037)	(2,959,957)	(2,988,511)	(2,959,957)	(2,959,957)	(2,657,611)	(6,564,641)
Total Operational Disbursements	**(10,383,497)**	**(6,965,164)**	**(9,881,756)**	**(11,819,686)**	**(3,903,042)**	**(8,896,067)**	**(5,725,050)**	**(10,471,937)**	**(4,224,630)**	**(12,756,940)**
Non-Operational Disbursements										
Professional Fees	(7,696,422)	(600,000)	-	(140,000)	-	(150,000)	-	(2,650,000)	-	(42,951,234)
Debt Service	-	(3,300,000)	-	(711,858)	-	-	-	(691,011)	-	(4,850,000)
Total Non-Operational Disbursements	**(7,696,422)**	**(3,900,000)**	**-**	**(851,858)**	**-**	**(150,000)**	**-**	**(3,341,011)**	**-**	**(47,801,234)**
Taxes	(504,876)	(517,798)	(238,174)	(181,267)	(51,321)	(902,076)	(114,765)	(253,407)	(461,195)	(310,525)
Net Cash Flow	**(11,218,666)**	**(4,348,993)**	**(702,752)**	**(5,644,595)**	**759,782**	**(3,984,997)**	**(858,026)**	**(4,802,278)**	**2,023,393**	**(54,690,218)**
Cash transferred to Non-Debtors										
Cash Transferred	-	1,500,000	500,000		2,000,000		2,000,000		2,000,000	
Cash Transferred Cumulative	-	1,500,000	2,000,000	2,000,000	4,000,000	4,000,000	6,000,000	6,000,000	8,000,000	8,000,000
Liquidity										
Liquidity										
Cash	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410	46,922,721
AR Facility Availability	-	-	-	-	-	-	-	-	-	-
Revolver Availability	-	-	-	-	-	-	-	-	-	-
Less: Unavailable Foreign Cash	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)
Total Liquidity	**12,392,146**	**28,241,465**	**42,559,625**	**31,993,111**	**29,459,100**	**31,293,519**	**31,951,673**	**37,983,068**	**35,296,166**	**46,272,477**
Senior Secured Super-Priority TL										
Beginning Balance	-	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000
Additional Borrowing/(Repayment)	-	25,000,000	-	-	-	10,000,000	5,000,000	-	-	20,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	(60,000,000)
Ending Balance	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000	-
New First Out TL										
Beginning Balance	-	-	-	-	-	-	-	-	-	-
Additional Borrowing/(Repayment)	-	-	-	-	-	-	-	-	-	50,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	60,000,000
Ending Balance	-	-	-	-	-	-	-	-	-	110,000,000
AR Facility										
Beginning Balance	67,760,133	67,760,133	67,760,133	68,365,479	68,365,479	68,365,479	68,365,479	68,365,479	63,397,178	63,397,178
Plus: Net Borrowing	-	-	21,467,015	-	-	-	-	17,357,918	-	-
Less: Repayment	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**67,760,133**	**67,760,133**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**63,397,178**	**63,397,178**	**63,397,178**
Less: Restricted Cash Balance	(16,059,980)	(20,861,669)	(6,446,103)	(11,368,022)	(14,661,815)	(18,842,399)	(22,326,219)	(6,524,244)	(11,234,539)	(15,568,011)
AR Facility Pro Forma Ending Balance	**51,700,153**	**46,898,464**	**61,919,376**	**56,997,457**	**53,703,664**	**49,523,080**	**46,039,260**	**56,872,934**	**52,162,639**	**47,829,167**
Restricted Cash										
Beginning Balance	11,029,101	16,059,980	20,861,669	6,446,103	11,368,022	14,661,815	18,842,399	22,326,219	6,524,244	11,234,539
Plus: CIT Collections	5,030,879	4,801,689	6,446,103	4,921,919	3,293,793	4,180,584	3,483,820	6,524,244	4,710,295	4,333,471
Less: AR Facility Paydown	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**16,059,980**	**20,861,669**	**6,446,103**	**11,368,022**	**14,661,815**	**18,842,399**	**22,326,219**	**6,524,244**	**11,234,539**	**15,568,011**
Cash										
Beginning Balance	29,291,936	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410
Change in Cash	(16,249,546)	15,849,318	14,318,160	(10,566,514)	(2,534,011)	1,834,419	658,154	6,031,396	(2,686,902)	10,976,310
Ending Balance	**13,042,390**	**28,891,709**	**43,209,869**	**32,643,355**	**30,109,344**	**31,943,763**	**32,601,917**	**38,633,312**	**35,946,410**	**46,922,721**

TAB LL

Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief

Docket #0086 Date Filed: 06/16/2020

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
SKILLSOFT CORPORATION, *et al.*[1]	)	Case No. 20-11532 (MFW)
	)	(Jointly Administered)
Debtors.	)	**Re: Docket No. 19**

INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (IV) MODIFYING AUTOMATIC STAY, (V) SCHEDULING FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") in the above captioned chapter 11 cases (collectively, the "**Cases**") for entry of an interim order (this "**Interim Order**"), pursuant to sections 105, 361, 362, 363, 364, 507, and 552 of title 11 of the United States Code (as amended, the "**Bankruptcy Code**"), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rules 2002-1(b), 4001-2, 9006-1, and 9013 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), seeking entry of this interim order (this "**Interim Order**") and:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion or the DIP Credit Agreement (defined below), as applicable.

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(i) authorizing Skillsoft Corporation, in its capacity as borrower (the "**Borrower**"), to obtain postpetition financing consisting of a senior secured super-priority term loan credit facility in the aggregate amount of $60,000,000 (such facility, the "**DIP Facility**" and the loans thereunder, the "**DIP Loans**") and authorizing each of the other Debtors (the "**Guarantors**") to guarantee unconditionally, on a joint and several basis, the Borrower's obligation in connection with the DIP Facility, each in accordance with the terms and conditions set forth in the DIP Credit Agreement (defined below) and the terms and conditions set forth in the DIP Documents (defined below), upon entry of the Interim Order and subject to the terms of the Final Order (as defined in the DIP Credit Agreement);

(ii) authorizing the Debtors to enter into that certain Senior Secured Super-Priority Debtor-In-Possession Credit Agreement substantially in the form attached hereto as **Exhibit 2**, among Pointwell Limited, a corporation organized under the laws of Ireland, as parent, the Borrower, the Lenders party thereto (in such capacity, collectively, the "**DIP Lenders**"), and Wilmington Savings Fund Society, FSB, as Administrative Agent (in such capacity, the "**DIP Administrative Agent**"), Collateral Agent (in such capacity, the "**DIP Collateral Agent**" and, together with the DIP Administrative Agent, the "**DIP Agent**"), and Escrow Agent (in such capacity, the "**DIP Escrow Agent**" and, together with the DIP Administrative Agent, the DIP Collateral Agent and the DIP Lenders, the "**DIP Secured Parties**") (as the same may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**" and, together with the schedules and exhibits attached thereto, this Interim Order, the Final Order, and all agreements, documents, and instruments delivered or executed in connection therewith (including the Fee Letter (as defined in the DIP Credit Agreement) executed by the Borrower in connection with the DIP Facility, and

other guarantee and security documentation, collectively, the "**DIP Documents**"), and to perform such other and further acts as may be required in connection with the DIP Documents;

(iii) authorizing the Debtors to use the DIP Loans, the proceeds thereof, and the Prepetition Collateral (defined below), including Cash Collateral (defined below), in accordance with the Initial Approved Budget (as defined in the DIP Credit Agreement and attached hereto as **Exhibit 1**) (subject to the permitted variances set forth in the DIP Credit Agreement), and subsequently Approved Budgets, to provide working capital for, and for the other general corporate purposes of, the Debtors, including chapter 11 expenses, the operations of certain non-Debtor subsidiaries through "on-lending" or contributions of capital, Adequate Protection Payments (defined below), and reasonable and documented out-of-pocket transaction costs, fees, and expenses incurred in connection with the restructuring contemplated to be implemented through the Cases in accordance with the RSA (as defined in the DIP Credit Agreement);

(iv) granting adequate protection to the Prepetition Secured Parties (defined below) to the extent of any Diminution in Value (defined below) of their interests in the Prepetition Collateral;

(v) granting to the DIP Agent, for the benefit of the DIP Secured Parties to secure the DIP Obligations (defined below), valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on, and senior security interests in, all of the DIP Collateral (defined below), subject only to (x) the Carve Out (defined below) and (y) other valid, perfected and unavoidable liens (other than the Prepetition Liens (defined below)) that are senior to the Prepetition Liens, if any, existing as of the Petition Date (or perfected after the Petition Date to the

extent permitted by section 546(b) of the Bankruptcy Code) on the terms and conditions set forth herein and in the DIP Documents (any such liens, the "**Existing Senior Liens**");[3]

(vi) granting superpriority administrative expense claims against each of the Debtors' estates to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders with respect to the DIP Obligations (defined below) with priority over any and all administrative expenses of any kind or nature and subject and subordinate only to the payment of the Carve Out on the terms and conditions set forth herein and in the DIP Documents;

(vii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, waiving certain of the Debtors' and the Debtors' estates' right to surcharge against the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code;

(viii) subject to entry of the Final Order granting such relief, and to the extent set forth herein, providing that the "equities of the case" exception under section 552(b) of the Bankruptcy Code not apply to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties with respect to the proceeds, products, offspring, or profits of any of the Prepetition Collateral or the DIP Collateral, as applicable;

(ix) pursuant to Bankruptcy Rule 4001, holding an interim hearing (the "**Interim Hearing**") on the Motion before this Court to consider entry of this Interim Order to, among other things, (1) authorize the Borrower to, on an interim basis, borrow from the DIP Lenders a principal amount of $60,000,000 in DIP Loans, (2) authorize the Guarantors to guaranty the DIP Obligations, (3) authorize the Debtors' use of Prepetition Collateral (including Cash

[3] Nothing in this Interim Order shall constitute a finding or ruling by this Court that any such prepetition liens are valid, senior, perfected, and/or unavoidable. Moreover, nothing in this Interim Order shall prejudice the rights of any party in interest including, but not limited to, the Debtors, the DIP Secured Parties, and/or the Committee to challenge the validity, priority, perfection and extent of any such prepetition liens.

Collateral), (4) grant the adequate protection described in this Interim Order, and (5) authorize the Debtors to execute and deliver the DIP Documents to which they are a party and to perform their respective obligations thereunder and such other and further acts as may be necessary or appropriate in connection therewith;

(x) scheduling a final hearing (the "**Final Hearing**") within twenty-five (25) days of the Petition Date to consider the relief requested in the Motion and the entry of the Final Order;

(xi) approving the form of notice with respect to the Final Hearing; and

(xii) granting related relief.

This Court having considered the Motion, the exhibits thereto, the *Declaration of John Frederick in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), the *Declaration of Christopher A. Wilson in Support of the Debtors' Motion for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Wilson Declaration**"), and the other evidence submitted or adduced and the arguments of counsel made at the Interim Hearing held pursuant to Bankruptcy Rule 4001(b)(2) on June 16, 2020; and this Court having heard and resolved or overruled on the merits any objections, reservations of rights, or other statements with respect to the relief requested in the Motion; and this Court having noted the appearances of parties in interest; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors; and the Debtors having provided notice of the Motion as set forth in the Motion, and it appearing that

no other or further notice of the Motion need be given; and after due deliberation and consideration, and for good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[4]

A. *Petition Date*. On June 14, 2020 (the "**Petition Date**"), each of the Debtors filed a voluntary petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware commencing these Cases.

B. *Debtors in Possession*. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

C. *Jurisdiction and Venue*. The Court has jurisdiction over the Motion, these Cases, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. Venue for these Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Court may enter a final order consistent with Article III of the United States Constitution.

D. *Committee*. As of the date hereof, no official committee of unsecured creditors has been appointed in these Cases pursuant to section 1102 of the Bankruptcy Code (any such committee, the "**Committee**").

[4] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law, pursuant to Bankruptcy Rules 7052 and 9014.

E. *Debtors' Stipulations*. Without prejudice to the rights of parties in interest with standing other than the Debtors, but subject to the limitations thereon contained in Paragraphs 12 and 26 of this Interim Order, the Debtors represent, admit, stipulate, and agree (subsections (i) through (v) below, collectively, the "**Debtors' Stipulations**") that:

(i) *Prepetition Indebtedness*.

(a) The Prepetition First Lien Lenders (defined below), under that certain First Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Credit Agreement**" and, together with the "Credit Documents" (as defined in the Prepetition First Lien Credit Agreement), the "**Prepetition First Lien Credit Documents**"; the term loans issued under the Prepetition First Lien Credit Agreement, the "**Prepetition First Lien Term Loans**"; the revolving loans issued thereunder, the "**Prepetition First Lien Revolving Loans**" and, together with the Prepetition First Lien Term Loans, the "**Prepetition First Lien Debt**"), by and among among Evergreen Skills Intermediate Lux S.à r.l. ("**Holdings**"), Evergreen Skills Lux S.à r.l. (the "**Lux Borrower**"), the Borrower, Skillsoft Canada, Ltd. (the "**Canadian Borrower**"; the Lux Borrower, the Borrower, and the Canadian Borrower collectively, the "**First Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition First Lien Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (the "**Prepetition First Lien Administrative Agent**") and collateral agent (the "**Prepetition First Lien Collateral Agent**" and, together with the Prepetition First Lien Administrative Agent, the "**Prepetition First Lien Agent**"; the Prepetition First Lien Agent together with the Prepetition First Lien Lenders, the "**Prepetition First Lien Secured Parties**"), and the other parties thereto from time to time, provided the First Lien Borrowers with Prepetition First Lien Term Loans in the aggregate

principal amount of $900,000,000 and commitments for Prepetition First Lien Revolving Loans in the aggregate principal amount of $100,000,000.

(b) The Prepetition Second Lien Lenders (defined below), under that certain Second Lien Credit Agreement dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Credit Agreement**" and, together with the Prepetition First Lien Credit Agreement, the "**Prepetition Credit Agreements**"; the "**Credit Documents**" (as defined in the Prepetition Second Lien Credit Agreement), the "**Prepetition Second Lien Credit Documents**" and, together with the Prepetition First Lien Credit Documents, the "**Prepetition Credit Documents**"; the term loans issued under the Prepetition Second Lien Credit Agreement, the "**Prepetition Second Lien Term Loans**" and, together with the Prepetition First Lien Debt, the "**Prepetition Indebtedness**"), by and among among Holdings, Evergreen Skills Lux S.à r.l., the Lux Borrower, the Borrower (the Lux Borrower together with the Borrower, the "**Second Lien Borrowers**"), the lenders party thereto from time to time (the "**Prepetition Second Lien Lenders**" and, together with the Prepetition First Lien Lenders, the "**Prepetition Secured Lenders**"), Wilmington Savings Fund Society, FSB, as the administrative agent (in such capacity, the "**Prepetition Second Lien Administrative Agent**") and collateral agent (in such capacity, the "**Prepetition Second Lien Collateral Agent**" and, together with the Prepetition Second Lien Administrative Agent, the "**Prepetition Second Lien Agent**"; the Prepetition Second Lien Agent together with the Prepetition First Lien Agent, the "**Prepetition Agents**"; the Prepetition Agents together with the DIP Agent and the DIP Escrow Agent, the "**Agents**"); the Prepetition Second Lien Agent together with the Prepetition Second Lien Lenders, the "**Prepetition Second Lien Secured Parties**"; the Prepetition Second Lien Secured Parties together with the Prepetition First Lien Secured Parties,

the "**Prepetition Secured Parties**"), and the other parties thereto from time to time, provided the Second Lien Borrowers with Prepetition Second Lien Term Loans in the aggregate principal amount of $485,000,000.

(c) On September 30, 2014, pursuant to the terms of that certain Amended and Restated First Lien Joinder Agreement and an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers obtained $465,000,000 in New Term Loans (as defined in the Prepetition First Lien Credit Agreement).

(d) On September 30, 2014, pursuant to the terms of that certain Amended and Restated Second Lien Joinder Agreement and an amendment to the Prepetition Second Lien Credit Agreement, the Second Lien Borrowers obtained $185,000,000 in New Term Loans (as defined in the Prepetition Second Lien Credit Agreement).

(e) On August 24, 2018, pursuant to an amendment to the Prepetition First Lien Credit Agreement, the First Lien Borrowers reduced the aggregate Revolving Credit Commitments of all Revolving Credit Lenders (each as defined in the Prepetition First Lien Credit Agreement) from $100,000,000 to $90,000,000.

(f) On or about March 27, 2019 the Company (i) prepaid $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Loans and (ii) terminated $10,000,000 of the aggregate principal amount of outstanding Revolving Credit Commitments (each as defined in the Prepetition First Lien Credit Agreement) thereby reducing the First Lien Borrowers' obligations pursuant to the Prepetition First Lien Credit Agreement from $90,000,000 to $80,000,000.

(g) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition First Lien Secured

Parties pursuant to the Prepetition First Lien Credit Documents, for Prepetition First Lien Term Loans in the aggregate principal amount of approximately $1,290,000,000 and Prepetition First Lien Revolving Loans in the aggregate principal amount of approximately $79,500,000, *plus*, with respect to each, accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition First Lien Credit Agreement) owing under the Prepetition First Lien Credit Documents (collectively, the "**Prepetition First Lien Obligations**").

(h) As of the Petition Date, the Debtors, without defense, counterclaim, or offset of any kind, were jointly and severally indebted to the Prepetition Second Lien Secured Parties pursuant to the Prepetition Second Lien Credit Documents, for Prepetition Second Lien Term Loans in the aggregate principal amount of approximately $670,000,000 *plus* accrued and unpaid interest with respect thereto and any additional fees, costs, expenses (including any attorneys', financial advisors', and other professionals' fees and expenses), reimbursement obligations, indemnification obligations, contingent obligations, and other charges of whatever nature, whether or not contingent, whenever arising, due, or owing, and all other Obligations (as defined in the Prepetition Second Lien Credit Agreement) owing under the Prepetition Second Lien Credit Documents (collectively, the "**Prepetition Second Lien Obligations**" and, together with the Prepetition First Lien Obligations, the "**Prepetition Obligations**").

(ii) *Prepetition Indebtedness Collateral*.

(a) In connection with the Prepetition First Lien Credit Agreement, the Debtors entered into that certain First Lien Security Agreement, dated as of April 28, 2014 (as

amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition First Lien Security Agreement**"), by and between the First Lien Borrowers, the other Credit Parties (as defined in the Prepetition First Lien Credit Agreement) party thereto, and the Prepetition First Lien Collateral Agent. Pursuant to the Prepetition First Lien Security Agreement and the other Prepetition First Lien Credit Documents, the Prepetition First Lien Obligations are secured by valid, binding, perfected first-priority security interests in and liens (the "**Prepetition First Lien Revolving and Term Loan Liens**") on the "Collateral" (the "**Prepetition Collateral**"), as defined in the Prepetition First Lien Security Agreement, consisting of substantially all of the Debtors' assets, except as may be set forth in the Prepetition First Lien Security Agreement.

(b) In connection with the Prepetition Second Lien Credit Agreement, the Debtors entered into that certain Second Lien Security Agreement, dated as of April 28, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Prepetition Second Lien Security Agreement**" and, together with the Prepetition First Lien Security Agreement, the "**Prepetition Security Agreements**"), by and between the Second Lien Borrowers, the other Credit Parties (as defined in the Prepetition Second Lien Credit Agreement) party thereto, and the Prepetition Second Lien Collateral Agent. Pursuant to the Prepetition Second Lien Security Agreement and the other Prepetition Second Lien Credit Documents, the Prepetition Second Lien Obligations are secured by valid, binding, perfected second-priority security interests in and liens (the "**Prepetition Second Lien Term Loan Liens**" and, together with the Prepetition First Lien Revolving and Term Loan Liens, the "**Prepetition Liens**") on the Prepetition Collateral.

(iii) *Cash Collateral*. Any and all of the Debtors' cash, including (i) amounts on deposit or maintained in any account or accounts by the Debtors, (ii) any amounts generated by the collection of accounts receivable or other disposition of the Prepetition Collateral existing as of the Petition Date, and (iii) the proceeds of any of the foregoing is the Prepetition Secured Parties' cash collateral within the meaning of Bankruptcy Code section 363(a) (the "**Cash Collateral**").

(iv) *Bank Accounts*. The Debtors acknowledge and agree that as of the Petition Date, none of the Debtors has either opened or maintains any bank accounts other than the accounts listed in the exhibit attached to any order authorizing the Debtors to continue to use the Debtors' existing cash management system (the "**Cash Management Order**").

(v) *Validity, Perfection, and Priority of Prepetition Liens and Prepetition Obligations*. Subject to the Challenge Period (defined below), each of the Debtors acknowledges and agrees that: (A) as of the Petition Date, the Prepetition Liens are valid, binding, enforceable, non-avoidable, and properly perfected liens on and security interests in the Prepetition Collateral; (B) as of the Petition Date, the Prepetition Liens are subject and/or subordinate only to valid, perfected, and unavoidable liens and security interests existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; (C) the Prepetition Obligations constitute legal, valid, binding, and non-avoidable obligations of the Debtors; (D) no offsets, challenges, objections, defenses, claims, or counterclaims of any kind or nature to any of the Prepetition Liens or Prepetition Obligations exist, and no portion of the Prepetition Liens or Prepetition Obligations is subject to any challenge or defense including impairment, set-off, right of recoupment, avoidance, attachment, disallowance, disgorgement, reduction, recharacterization, recovery, subordination (whether equitable or otherwise), attack, offset, defense, counterclaims, cross-claims, or "claim" (as defined in the

Bankruptcy Code), pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (E) the Debtors and their estates have no claims, objections, challenges, causes of actions, recoupments, counterclaims, cross-claims, setoff rights, and/or choses in action, including "lender liability" causes of action or avoidance claims under chapter 5 of the Bankruptcy Code, whether arising under applicable state law or federal law (including any recharacterization, subordination, avoidance, disgorgement, recovery, or other claims arising under or pursuant to sections 105, 510, or 542 through 553 of the Bankruptcy Code), against the Prepetition Agents, the Prepetition Secured Parties, or any of their respective affiliates, agents, representatives, attorneys, advisors, professionals, officers, directors, and employees arising out of, based upon, or related to the Prepetition Indebtedness under the Prepetition Credit Documents, the Prepetition Obligations, or the Prepetition Liens; provided, however, that notwithstanding anything to the contrary in this Interim Order, the Debtors do not agree or acknowledge that the Prepetition Liens are perfected on cash in any accounts with institutions that are not the Prepetition Agents or Prepetition Secured Parties.

F. *Findings Regarding the DIP Facility and Use of Cash Collateral*.

(i) The Debtors have an immediate need to obtain the funds available under the DIP Facility and to use Cash Collateral (solely to the extent consistent with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents)) to, among other things, (A) permit the orderly continuation of their businesses; (B) make certain Adequate Protection Payments; and (C) pay the costs of administration of their estates and satisfy their other working capital and general corporate purposes during the pendency of these Cases. Specifically, the proceeds of the DIP Loans will provide the Debtors with the ability to fund day-to-day operations and meet administrative obligations during the Cases. The DIP Facility will

also reassure the Debtors' customers and employees that the Debtors will have access to additional liquidity to meet their commitments during the Cases and that the Debtors' businesses will continue as a going concern post-emergence. The ability of the Debtors to obtain sufficient working capital and liquidity through the incurrence of the new indebtedness for borrowed money and other financial accommodations is vital to the preservation and maintenance of the Debtors' going concern value and successful reorganization. The Debtors will not have sufficient sources of working capital and financing to operate their businesses in the ordinary course of business throughout the Cases without access to the DIP Facility and authorized use of Cash Collateral.

(ii) The Debtors are unable to obtain financing on more favorable terms from sources other than the DIP Lenders under the DIP Documents and are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), and 364(c)(3) of the Bankruptcy Code for the purposes set forth in the DIP Documents without the Debtors granting to the DIP Secured Parties, subject to the Carve Out as provided for herein, the DIP Liens (defined below) and the DIP Superpriority Claims (defined below) under the terms and conditions set forth in this Interim Order and the DIP Documents.

(iii) The DIP Facility has been negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties, and all of the Debtors' obligations and indebtedness arising under, in respect of, or in connection with the DIP Facility and the DIP Documents including, without limitation, all loans made to and guarantees issued by the Debtors pursuant to the DIP Documents and all other obligations under the DIP Documents (collectively, the "**DIP Obligations**") shall be deemed to have been extended by the DIP Secured Parties in good faith as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon

the protections offered by section 364(e) of the Bankruptcy Code. The DIP Obligations, the DIP Liens, and the DIP Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, and any liens or claims granted to, or payments made to, the DIP Agent, the DIP Escrow Agent, or the DIP Lenders hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein.

(iv) *Sections 506(c) and 552(b)*. In light of the Prepetition Secured Parties' agreement to subordinate their liens and superpriority claims to the DIP Obligations and the Carve Out and to permit the use of their Cash Collateral as set forth herein, the Prepetition Secured Parties are entitled to the rights and benefits of section 552(b) of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, (i) a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code and (ii) a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(v) *Consent by Prepetition Agents*. The Prepetition First Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition First Lien Credit Agreement (the "**Required Prepetition First Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition First Lien Secured Parties, and the Prepetition Second Lien Agent (at the direction of the Required Lenders (as defined in the Prepetition Second Lien Credit Agreement (the "**Required Prepetition Second Lien Lenders**")), on behalf of and for the benefit of each of the Prepetition Second Lien Secured Parties, have consented to, conditioned on the entry of this Interim Order, the Debtors' incurrence of the DIP Facility and proposed use of Cash Collateral on the terms and

conditions set forth in this Interim Order and the terms of the adequate protection provided for in this Interim Order, including that the Adequate Protection Liens and Adequate Protection Superpriority Claims are subject and subordinate to the Carve Out.

G. *Good Cause Shown; Best Interest*. Good cause has been shown for entry of this Interim Order, and entry of this Interim Order is in the best interests of the Debtors' respective estates and creditors as its implementation will, among other things, allow for the continued operation of the Debtors' existing business and enhance the Debtors' prospects for a successful reorganization. Absent granting the relief sought by this Interim Order, the Debtors' estates will be immediately and irreparably harmed.

H. *Notice*. In accordance with Bankruptcy Rules 2002, 4001(b) and (c), and 9014, and the Local Rules, notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors. Under the circumstances, the notice given by the Debtors of the Motion, the relief requested herein, and of the Interim Hearing complies with Bankruptcy Rules 2002, 4001(b) and (c), and 9014 and applicable Local Rules.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. DIP Financing Approved. The Motion is granted on an interim basis as set forth herein, and the use of Cash Collateral on an interim basis is authorized, subject to the terms of this Interim Order.

2. Objections Overruled. Any objections, reservations of rights, or other statements with respect to entry of the Interim Order, to the extent not withdrawn or resolved, are overruled on the merits. This Interim Order shall become effective immediately upon its entry.

3. Authorization of the DIP Facility and the DIP Documents.

(a) The Debtors are hereby immediately authorized and empowered to enter into, and to execute and deliver, the DIP Documents, and such additional documents, instruments, certificates and agreements as may be reasonably required or requested by the DIP Secured Parties to implement the terms or effectuate the purposes of this Interim Order and the DIP Documents. To the extent not entered into as of the date hereof, the Debtors and the DIP Secured Parties shall negotiate the DIP Documents in good faith, and in all respects such DIP Documents shall be consistent with the terms of the DIP Credit Agreement and otherwise reasonably acceptable to the DIP Agent, the DIP Escrow Agent, and the Required Lenders (as defined in the DIP Credit Agreement, the "**Required DIP Lenders**"). Upon entry of this Interim Order and until execution and delivery of the DIP Credit Agreement and the other DIP Documents, the Debtors and the DIP Secured Parties shall be bound by (x) the terms and conditions and other provisions set forth in the executed DIP Documents, and (y) this Interim Order, which shall govern and control the DIP Facility. Upon entry of this Interim Order, the Interim Order, the DIP Credit Agreement, and other DIP Documents shall govern and control the DIP Facility. The DIP Agent and the DIP Escrow Agent are hereby authorized to execute and enter into its respective obligations under the DIP Documents, subject to the terms and conditions set forth therein and this Interim Order. Upon execution and delivery thereof, the DIP Documents shall constitute valid and binding obligations of the Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the terms and conditions of the Motion, the DIP Documents, and this Interim Order, the terms and conditions of this Interim Order shall govern and control. To the extent there is a conflict between the terms and conditions of the Motion and the DIP Documents, the terms and conditions of the DIP Documents shall govern.

(b) Upon entry of this Interim Order, the Borrower is hereby authorized to borrow, and the Guarantors are hereby authorized to guaranty, borrowings up to an aggregate principal amount of $60,000,000 in DIP Loans into an escrow account, of which up to $30,000,000 in DIP Loans may be drawn prior to entry of the Final Order, subject to and in accordance with the terms of this Interim Order and the DIP Documents.

(c) The proceeds of the DIP Loans shall be used solely for the purposes permitted under the DIP Documents and this Interim Order, and in accordance with the Approved Budget, subject to permitted variances as set forth in this Interim Order and the DIP Documents. Attached as **Exhibit 1** hereto and incorporated herein by reference is the Initial Approved Budget prepared by the Debtors and approved by the Required DIP Lenders in accordance with Section 9.18 of the DIP Credit Agreement.

(d) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized, and the automatic stay imposed by section 362 of the Bankruptcy Code is hereby lifted to the extent necessary to perform all acts and to make, execute, and deliver all instruments and documents, and to pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Documents including, without limitation:

(1) the execution, delivery, and performance of the DIP Documents, including, without limitation, the DIP Credit Agreement, any guaranty, security and pledge agreement, and any mortgage to the extent contemplated thereby;

(2) the execution, delivery, and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Documents (in each case in accordance with the terms of the applicable DIP Documents and in such form as the

Debtors, the DIP Agent, the DIP Escrow Agent (if applicable), and the Required DIP Lenders may agree), it being understood that (i) no further approval of the Court shall be required for amendments, waivers, consents, or other modifications to and under the DIP Documents or the DIP Obligations that do not shorten the maturity of the extensions of credit thereunder or modify the commitments or the rate of interest or other amounts payable thereunder and (ii) any such amendments, waivers, consents or modifications to the DIP Documents shall be provided to the U.S. Trustee and the Committee (if any);

(3) the non-refundable payment to each of and/or on behalf of the DIP Secured Parties, as applicable, of the fees and expenses referred to in the DIP Documents, including (x) all fees and other amounts owed to the DIP Agent, the DIP Escrow Agent, and the DIP Lenders and (y) all reasonable and documented costs and expenses as may be due from time to time, including, without limitation, the reasonable and documented fees and expenses of counsel and other professionals retained as provided for in the DIP Documents (whether incurred before or after the Petition Date, including, for the avoidance of doubt, (a) the Specified Lender Advisors; (b) the Crossholder Lender Advisors; and (c) the Agent Advisors (each, as defined in the DIP Credit Agreement), and, solely to the extent necessary to exercise its rights and fulfill its obligations under the DIP Documents, one counsel to the DIP Agent in each local jurisdiction, which such fees and expenses shall not be subject to the approval of the Court, nor shall any recipient of any such payment be required to file with respect thereto any interim or final fee application with the Court provided that any fees and expenses of a professional shall be subject to the provisions of Paragraph 18 of this Interim Order; and

(4) the performance of all other acts required under or in connection with the DIP Documents.

(e) Upon entry of this Interim Order, the DIP Documents, the DIP Obligations, and the DIP Liens shall constitute valid, binding, and non-avoidable obligations of the Debtors enforceable against each Debtor party thereto in accordance with their respective terms and the terms of this Interim Order for all purposes during the Cases, any subsequently converted Case of any Debtor to a case under chapter 7 of the Bankruptcy Code or after the dismissal of any Case. No obligation, payment, transfer, or grant of security under the DIP Credit Agreement, the other DIP Documents, or this Interim Order shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under sections 502(d), 548, or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any defense, reduction, setoff, recoupment, or counterclaim. All payments or proceeds remitted (a) to or on behalf of the DIP Agent or the DIP Escrow Agent on behalf of any DIP Secured Parties or (b) to or on behalf of the Prepetition Secured Parties, in each case pursuant to the DIP Documents, the provisions of this Interim Order, or any subsequent order of this Court, shall be received free and clear of any claim, charge, assessment, or other liability, including, without limitation, any such claim or charge arising out of or based on, directly or indirectly, section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code (and, solely in the case of waivers of rights under sections 506(c) and 552(b) of the Bankruptcy Code, subject to the entry of the Final Order approving such waivers).

(f) The Guarantors are hereby authorized and directed to jointly, severally, and unconditionally guarantee, and upon entry of this Interim Order shall be deemed to have guaranteed, in full, all of the DIP Obligations.

4. Budget and Variance Reporting. The Initial Approved Budget is attached hereto as **Exhibit 1** and each updated, modified, or supplemented budget shall be in form and substance satisfactory to the Required DIP Lenders (it being acknowledged and agreed that the Initial Approved Budget attached to this Interim Order is approved by and satisfactory to the Required DIP Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of the DIP Credit Agreement, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required DIP Lenders may be communicated via an email from either of the Specified Lender Advisors). The Approved Budget shall be updated, modified or supplemented by the Debtors from time to time in writing transmitted to the DIP Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required DIP Lenders (with a copy of such written consent or request concurrently delivered to the DIP Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week following entry of this Interim Order, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required DIP Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required DIP Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required DIP Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required DIP Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period covered by the prior approved Approved Budget has terminated (and at all times thereafter

such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required DIP Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Commencing on July 16, 2020, on or before 5:00 p.m. (Eastern Standard Time) on the Thursday of every other week, the Borrower shall deliver to the DIP Agent and the Specified Lender Advisors (for distribution to the DIP Lenders) an Approved Budget Variance Report (as defined in the DIP Credit Agreement), which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period (as defined in the DIP Credit Agreement), be in a form satisfactory to the Required DIP Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors) and include all materials required by, and be otherwise consistent with, Section 9.18(c) of the DIP Credit Agreement.

5. Access to Records. Upon request, the Debtors shall provide the Specified Lender Advisors and the Crossholder Lender Advisors with all reporting and other information required to be provided to the DIP Agent under the DIP Documents, subject to the same limitations set forth therein. In addition to, and without limiting whatever rights to access the DIP Secured Parties have under the DIP Documents, upon reasonable notice to Debtors' counsel (e-mail being sufficient), at reasonable times and during normal business hours, the Debtors shall permit representatives, agents, and employees of the DIP Secured Parties to have access to (i) inspect the Debtors' assets, and (ii) all information (including historical information and the Debtors' books and records) and personnel, including regularly scheduled meetings as mutually agreed with the senior management of the Debtors and other company advisors (during normal business hours), and provide the DIP Secured Parties with access to all information they shall reasonably request, excluding any information for which confidentiality is owed to third parties, information subject

to attorney client or similar privilege, or where such disclosure would not be permitted by any applicable law, in each case as set forth in the DIP Documents.

6. DIP Superpriority Claims. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed superpriority administrative expense claims against each of the Debtors' estates (the "**DIP Superpriority Claims**") (without the need to file any proof of claim) with priority over any and all administrative expenses, adequate protection claims, diminution claims (if any), and all other claims against the Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under sections 105, 326, 327, 328, 330, 331, 361, 362, 363, 364, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 726, 1113, or 1114 of the Bankruptcy Code or otherwise, which allowed claims shall for the purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code and which shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof, including, without limitation, subject to authorization in the Final Order, any proceeds or property recovered in connection with the pursuit of claims or causes of action arising under chapter 5 of the Bankruptcy Code (such claims and causes of action, the "**Avoidance Actions**" and, the proceeds thereof and the property recovered with respect thereto, collectively, the "**Avoidance Proceeds**"), if any, subject only to, and subordinated in all respects to, the payment of the Carve Out.

7. DIP Liens. As security for the DIP Obligations, effective and perfected upon the date of this Interim Order, and without the necessity of the execution, recordation of filings by the

Debtors of mortgages, security agreements, control agreements, pledge agreements, financing statements, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements, or the possession or control by the DIP Agent, the DIP Escrow Agent, or any DIP Lender of, or over, any DIP Collateral, the following security interests and liens are hereby granted by the Debtors to the DIP Agent, for the benefit of the DIP Secured Parties (all property identified in clause (a) and (b) below being collectively referred to as the "**DIP Collateral**"), subject only to (x) the Carve Out and (y) the Existing Senior Liens (all such liens and security interests granted to the DIP Collateral Agent, for the benefit of the DIP Lenders, pursuant to this Interim Order and the DIP Documents, the "**DIP Liens**"):

(a) First Priority Lien On Any Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable, automatically, and properly perfected first priority senior security interest in and lien upon all property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on or as of the Petition Date is not subject to valid, perfected, and non-avoidable liens (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) (collectively, the "**Previously Unencumbered Property**") (subject to the Carve Out), including, without limitation (in each case, to the extent not subject to valid, perfected, and non-avoidable liens), an equity pledge of any first-tier foreign subsidiaries of the Debtors, unencumbered cash constituting property of the Debtors (whether maintained with the DIP Agent, the DIP Escrow Agent, or otherwise) and any investment of such cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, patents, trademarks, copyrights, and licenses therefor, accounts receivable, receivables and receivables records, general intangibles, payment intangibles,

tax or other refunds, insurance proceeds, letters of credit, contracts, owned real estate, real property leaseholds, fixtures, deposit accounts, commercial tort claims, securities accounts, instruments, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, real property, leases (and proceeds from the disposition thereof), all of the issued and outstanding capital stock of each Debtor, other equity or ownership interests (including equity interests in subsidiaries of each Debtor), money, investment property, intercompany claims, claims arising on account of transfers of value from a Debtor to (x) another Debtor and (y) a non-Debtor affiliate incurred on or following the Petition Date, causes of action, including causes of action arising under section 549 of the Bankruptcy Code (but excluding all other Avoidance Actions), all products and proceeds of the foregoing and, subject to entry of the Final Order granting such relief, the Avoidance Proceeds; provided that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(b) Liens Priming the Prepetition Liens. Pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior priming security interest in and lien upon all property of the Debtors that was subject to the Prepetition Liens (subject to the Carve Out) including, without limitation, the Prepetition Collateral and Cash Collateral; provided that such liens shall be immediately junior to any valid, perfected, and unavoidable liens, if any, existing as of the Petition Date that are senior in priority to the Prepetition Liens as permitted by the terms of the Prepetition Credit Documents; provided,

further, that, for the avoidance of doubt and notwithstanding anything to the contrary contained herein, (x) with respect to non-residential leases of real property, unless the applicable lease expressly permits the granting of liens on such lease, the liens granted pursuant to this Interim Order shall attach solely to the proceeds of such lease and not to the subject lease itself and (y) Excluded Property (as defined in the DIP Credit Agreement) shall not be subject to such liens granted pursuant to this Interim Order.

(c) Validity, Enforceability. The DIP Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases, or any case under chapter 7 of the Bankruptcy Code upon the conversion of any of these Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, "**Successor Cases**"). Except as expressly provided herein with respect to the Carve Out and Existing Senior Liens, if any, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the DIP Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The DIP Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order granting such relief, the DIP Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the DIP Liens shall be deemed legal, valid, binding, enforceable, and perfected first-priority liens (subject only to the Carve Out and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

8. Adequate Protection for the Prepetition Secured Parties. Subject only to the Carve Out and the terms of this Interim Order, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, and in consideration of the stipulations and consents set forth herein, as adequate protection of their interests in the Prepetition Collateral (including Cash Collateral), solely for and equal in amount to the aggregate postpetition diminution in value of such interests (if any) (each such diminution, a "**Diminution in Value**"), resulting from, among other things, the imposition of the priming DIP Liens on the Prepetition Collateral, subordination to the Carve Out, the Debtors' use of the Prepetition Collateral (including Cash Collateral), and the imposition of the automatic stay, the Prepetition Agents, for the benefit of themselves and the other Prepetition Secured Parties, are hereby granted the following (collectively, the "**Adequate Protection Obligations**"):

(a) Adequate Protection Liens.

(1) First Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition First Lien Secured Parties in the Prepetition Collateral, to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition First Lien Collateral Agent, for the benefit of itself and each of the Prepetition First Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, effective and automatically perfected postpetition security interests in and liens

(together, the "**First Lien Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the First Lien Adequate Protection Liens shall be subordinate only to (A) the Carve Out, (B) the DIP Liens, and (C) Existing Senior Liens, if any. The First Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The First Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, and the Existing Senior Liens, if any, the First Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the First Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The First Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the First Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the First Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected second-priority liens (subject only to the Carve Out, the DIP Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(2) Second Lien Adequate Protection Liens. As security for and adequate protection of the interests of the Prepetition Second Lien Secured Parties in the Prepetition Collateral to the extent of any Diminution in Value, the Debtors are authorized to, and as of entry of this Interim Order are deemed to have granted (without the necessity of the execution by the Debtors (or recordation or other filing), of security agreements, control agreements, pledge agreements, financing statements, mortgages, state or federal notices, recordings (including, without limitation, any recordings with the United States Patent and Trademark or Copyright Office), or other similar documents or agreements and without the necessity of taking possession or control of any DIP Collateral) to the Prepetition Second Lien Collateral Agent, for the benefit of itself and each of the Prepetition Second Lien Secured Parties, additional and replacement, valid, binding, enforceable, non-avoidable, and effective and automatically perfected postpetition security interests in and liens (together, the "**Second Lien Adequate Protection Liens**" and, together with the First Lien Adequate Protection Liens, the "**Adequate Protection Liens**") on all DIP Collateral, including, subject to authorization in the Final Order, all Avoidance Proceeds. Subject to the terms of this Interim Order, the Second Lien Adequate Protection Liens shall be subordinate only to the (A) Carve Out, (B) the DIP Liens, (C) the First Lien Adequate Protection Liens, (D) the Prepetition First Lien Revolving and Term Loan Liens, and (E) Existing Senior Liens, if any. The Second Lien Adequate Protection Liens shall otherwise be senior to all other security interests in, liens on, or claims against any of the DIP Collateral (including, for the avoidance of doubt, any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code). The Second Lien Adequate Protection Liens shall be enforceable against the Debtors, their estates, and any successors thereto, including, without limitation, any trustee or other estate representative appointed in these Cases or

any Successor Cases. Except as expressly provided herein with respect to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any, the Second Lien Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and the Second Lien Adequate Protection Liens shall be valid and enforceable against any trustee or other estate representative appointed in any of these Cases or any Successor Cases, or upon the dismissal of any of these Cases or Successor Cases. The Second Lien Adequate Protection Liens shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code and, subject to and upon entry of the Final Order, the Second Lien Adequate Protection Liens shall not be subject to section 506(c) or the "equities of the case" exception of section 552(b) of the Bankruptcy Code. Subject to Paragraph 12 hereof, the Second Lien Adequate Protection Liens shall be deemed legal, valid, binding, enforceable, and perfected third-priority liens (subject only to the Carve Out, the DIP Liens, the First Lien Adequate Protection Liens, the Prepetition First Lien Revolving and Term Loan Liens, and Existing Senior Liens, if any), not subject to subordination, impairment, or avoidance, for all purposes in these Cases and any Successor Cases.

(b) Adequate Protection Superpriority Claims.

(1) First Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition First Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (if any) (the "**First Lien Adequate Protection Superpriority Claims**"), but junior to the Carve Out and the DIP Superpriority Claims. Subject

to the Carve Out and the DIP Superpriority Claims in all respects, the First Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code and the Second Lien Adequate Protection Claims. The Prepetition First Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the First Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders, in each case as provided in the DIP Documents.

(2) Second Lien Adequate Protection Superpriority Claims. As further adequate protection, and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code, the Prepetition Second Lien Secured Parties shall have an allowed administrative expense claim in each of the Cases prior and senior to any and all other administrative expense claims in such Cases to the extent of any Diminution in Value (the "**Second Lien Adequate Protection Superpriority Claims**" and, together with the First Lien Adequate Protection Superpriority Claims, the "**Adequate Protection Superpriority Claims**"), but junior to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims. Subject to the Carve Out, the DIP Superpriority Claims, and the First Lien Adequate Protection Superpriority Claims in all respects, the Second Lien Adequate Protection Superpriority Claims will not be junior to any claims and shall have priority over all administrative expense claims against each of the

Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expense claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c) (subject to authorization in the Final Order), 507(a), 507(b), 546(d), 726, 1113, and 1114 of the Bankruptcy Code. The Prepetition Second Lien Secured Parties shall not receive or retain any payments, property or other amounts in respect of the Second Lien Adequate Protection Superpriority Claims under section 507(b) of the Bankruptcy Code granted hereunder unless and until the DIP Obligations and the First Lien Adequate Protection Superpriority Claims have been indefeasibly paid in full, in cash, or satisfied in a manner otherwise agreed to by the Required DIP Lenders and the Prepetition First Lien Secured Parties, in each case as provided in the DIP Documents.

(c) Adequate Protection Payments. As further adequate protection, the Debtors are authorized and directed to pay, in accordance with the terms of Paragraph 18 of this Interim Order, all reasonable and documented out-of-pocket fees and expenses (the "**Adequate Protection Fees**"), whether incurred before or after the Petition Date, including all reasonable and documented out-of-pocket fees and expenses of the Prepetition Agents and for the counsel and other professionals retained as provided for in the DIP Documents and this Interim Order, including, for the avoidance of doubt, of (A) the Specified Lender Advisors, (B) the Crossholder Lender Advisors, (C) the Agent Advisors, and (D) solely to the extent necessary to exercise and fulfill their obligations under the Prepetition Credit Documents, one counsel to the Prepetition Agents in each local jurisdiction (all payments referenced in this sentence, collectively, the "**Adequate Protection Payments**"). None of the Adequate Protection Fees shall be subject to separate approval by this Court or the U.S. Trustee Guidelines, and no recipient of any such payment shall

be required to file any interim or final fee application with respect thereto or otherwise seek the Court's approval of any such payments.

(d) Right to Seek Additional Adequate Protection. This Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the rights of the Prepetition Secured Parties to request further or alternative forms of adequate protection at any time or the rights of the Debtors or any other party to contest such request, and the Debtors' rights to object to the same are expressly preserved.

(e) Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is modified to the extent necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant and allow the DIP Liens, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agent, the Required DIP Lenders, the Prepetition Agents, the Required Prepetition First Lien Lenders or the Required Prepetition Second Lien Lenders may request in their respective reasonable discretions to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the Agents, the DIP Secured Parties, and the Prepetition Secured Parties under this Interim Order; and (d) subject to the Carve Out, authorize the Debtors to make, and the Agents, the DIP Secured Parties, and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order; provided that, during the Remedies Notice Period (defined below), the automatic stay under section 362 of the Bankruptcy Code (to the extent applicable) shall remain in effect.

9. Carve Out.

(a) Priority of Carve Out. Subject to the terms and conditions contained in this Paragraph 9, each of the DIP Liens, DIP Superpriority Claims, Prepetition Liens, Adequate Protection Liens, and Adequate Protection Superpriority Claims shall be subject and subordinate to the Carve Out. The Carve Out shall have such priority over all assets of the Debtors, including any DIP Collateral, Prepetition Collateral, and any funds in the Loan Proceeds Account (as defined in the DIP Credit Agreement).

(b) Definition of Carve Out. As used in this Interim Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in clause (iii) below); (ii) all reasonable and documented out-of-pocket fees and expenses up to $75,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in clause (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all reasonable and documented unpaid out-of-pocket fees and expenses (collectively, the "**Allowed Professional Fees**") of persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (such persons or firms, the "**Debtor Professionals**") and any persons or firms retained by any Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "**Committee Professionals**" and, together with the Debtor Professionals, the "**Professional Persons**") incurred at any time before or on the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of a Carve Out Trigger Notice (defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed

$3,000,000 incurred after the first business day following delivery by the DIP Agent (at the direction of Required DIP Lenders) of the Carve Out Trigger Notice (the "**Termination Declaration Date**"), to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the "**Post-Carve Out Trigger Notice Cap**"). For purposes of the foregoing, "**Carve Out Trigger Notice**" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent (at the direction of Required DIP Lenders) to the Debtors, their lead restructuring counsel (Weil, Gotshal & Manges LLP), the U.S. Trustee, and counsel to the Committee, if any, which notice shall be delivered following (i) the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked or (ii) the occurrence of a Maturity Date (as defined in the DIP Credit Agreement), other than clauses (a), (c), or (d) of the definition of "Maturity Date" in the DIP Credit Agreement (the "**Specified Maturity Date**").

(c) Carve Out Reserves. On the Termination Declaration Date, the Carve Out Trigger Notice shall (i) be deemed a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the then unpaid amounts (including the good-faith estimated and reasonable Professional Fees accrued and not yet invoiced) of the Allowed Professional Fees (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such

then unpaid Allowed Professional Fees (the "**Pre-Carve Out Trigger Notice Reserve**") prior to any and all other claims. On the Termination Declaration Date, the Carve Out Trigger Notice shall also (i) be deemed a request by the Debtors for DIP Term Loans under the DIP Facility (on a pro rata basis based on the then outstanding DIP Obligations), in an amount equal to the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans) and (ii) constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Carve Out Trigger Notice Reserve, to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap. The DIP Escrow Agent shall transfer the applicable amounts, and the Debtors shall deposit and hold such amounts in a segregated account at the DIP Agent in trust to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the "**Post-Carve Out Trigger Notice Reserve**" and, together with the Pre-Carve Out Trigger Notice Reserve, the "**Carve Out Reserves**") prior to any and all other claims. On the first business day after the DIP Agent gives such notice to such DIP Lenders, notwithstanding anything in the DIP Credit Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Credit Agreement) or Event of Default, the failure of the Debtors to satisfy any or all of the conditions precedent for DIP Loans under the DIP Facility, any termination of the DIP Obligations following an Event of Default, or the occurrence of the Maturity Date, each DIP Lender with an outstanding Commitment (on a pro rata basis based on the then outstanding Commitments) shall make available to the DIP Agent such DIP Lender's pro rata share with respect to such borrowing in accordance with the DIP Facility. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clauses (i) through (iii) of the definition of Carve Out set forth above

(the "**Pre-Carve Out Amounts**"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap, until paid in full, and then, to the extent the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding any restriction on the Debtors' use of Cash Collateral, all funds in the Post-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the "**Post-Carve Out Amounts**"), and then, to the extent the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, to pay the DIP Agent for the benefit of the DIP Secured Parties, unless the DIP Obligations have been indefeasibly paid in full, in cash, and all Commitments have been terminated, in which case any such excess shall be paid to the applicable Prepetition Agents for the benefit of the applicable Prepetition Secured Parties in accordance with their rights and priorities as of the Petition Date. Notwithstanding anything to the contrary in the DIP Documents, or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this Paragraph 9, then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve, up to the applicable amount set forth in this Paragraph 9, prior to making any payments to the DIP Agent or the Prepetition Agents, as applicable. Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve Out Trigger Notice, the DIP Agent, the DIP Escrow Agent and the Prepetition Agents shall not sweep or foreclose on cash (including cash received as a result of the sale or other

disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid to the DIP Agent for application in accordance with the DIP Documents. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve Out Reserves shall not constitute DIP Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Approved Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Facility, or in any facility pursuant to Prepetition Credit Agreements, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, the DIP Superpriority Claims, and the Adequate Protection Superpriority Claims, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Prepetition Obligations.

(d) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(e) No Direct Obligation to Pay Allowed Professional Fees. None of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agent, the DIP Escrow Agent, the DIP

Lenders, or the Prepetition Secured Parties, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall otherwise be entitled to the protections granted under this Interim Order, the DIP Documents, the Bankruptcy Code, and applicable law.

10. Reserved.

11. Reservation of Rights of the DIP Agent, DIP Escrow Agent, DIP Lenders, and Prepetition Secured Parties. Subject in all cases to the Carve Out, notwithstanding any other provision in this Interim Order or the DIP Documents to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair: (a) any of the rights of any of the Prepetition Secured Parties to seek any other or supplemental relief in respect of the Debtors including the right to seek additional adequate protection at and following the Final Hearing; provided that any such further or different adequate protection shall at all times be subordinate and junior to the Carve Out and the claims and liens of the DIP Secured Parties granted under this Interim Order and the DIP Documents; (b) any of the rights of the DIP Secured Parties or the Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right of any of the DIP Secured Parties or the Prepetition Secured Parties to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases, conversion of any of the

Cases to cases under chapter 7, or appointment of a chapter 11 trustee or examiner with expanded powers in any of the Cases, or (iii) seek to propose, subject to the provisions of section 1121 of the Bankruptcy Code, a chapter 11 plan or plans; or (c) any other rights, claims, or privileges (whether legal, equitable, or otherwise) of any of the DIP Secured Parties or the Prepetition Secured Parties. The delay in or failure of the DIP Secured Parties and/or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies shall not constitute a waiver of any of the DIP Secured Parties' or the Prepetition Secured Parties' rights and remedies.

12. Reservation of Certain Committee and Third Party Rights and Bar of Challenges and Claims. Subject to the Challenge Period (defined below), the stipulations, admissions, waivers, and releases contained in this Interim Order, including the Debtors' Stipulations, shall be binding upon the Debtors, their estates, and any of their respective successors in all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (defined below) as of the Petition Date. The stipulations, admissions, and waivers contained in this Interim Order, including, the Debtors' Stipulations, shall be binding upon all other parties in interest, including any Committee and any other person acting on behalf of the Debtors' estates, unless and to the extent that a party in interest with proper standing granted by order of the Court (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter under the Bankruptcy Rules (i) before the earlier of (a) except as to any Committee, seventy-five (75) calendar days after entry of the Interim Order, (b) in the case of any such adversary proceeding or contested matter filed by any Committee, sixty (60) calendar days after the appointment of such Committee, and (c) the date of entry of an order confirming a chapter 11 plan, subject to further extension by written agreement of the Prepetition First Lien Agent (acting at the direction of the Required Prepetition First Lien Lenders) and the

Prepetition Second Lien Agent (acting at the direction of the Required Prepetition Second Lien Lenders) (in each case, a "**Challenge Period**" and the date of expiration of each Challenge Period being, a "**Challenge Period Termination Date**"); provided, however, that if, prior to the end of a Challenge Period (x) the cases are converted to chapter 7, or (y) a chapter 11 trustee is appointed, then, in each such case, the Challenge Period applicable to the chapter 7 trustee or the chapter 11 trustee shall be the time remaining under the applicable Challenge Period plus ten (10) days; (ii) seeking to avoid, object to, or otherwise challenge the findings or Debtors' Stipulations regarding: (a) the validity, enforceability, extent, priority, or perfection of the mortgages, security interests, and liens of the Prepetition Agents and the Prepetition Secured Parties; or (b) the validity, enforceability, allowability, priority, secured status, or amount of the Prepetition Obligations (any such claim, a "**Challenge**"), and (iii) in which the Court enters a final order in favor of the plaintiff sustaining any such Challenge in any such timely filed adversary proceeding or contested matter. Upon the expiration of the Challenge Period Termination Date without the filing of a Challenge (or if any such Challenge is filed and overruled): (a) any and all such Challenges by any party (including the Committee, if any, any chapter 11 trustee, and/or any examiner or other estate representative appointed or elected in these Cases, and any chapter 7 trustee and/or examiner or other estate representative appointed or elected in any Successor Cases) shall be deemed to be forever barred; (b) the Prepetition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization, defense, or avoidance for all purposes in these Cases and any Successor Cases; (c) the Prepetition Indebtedness shall be deemed to have been, as of the Petition Date, legal, valid, binding, and perfected secured claims, not subject to recharacterization, subordination, or avoidance; and (d) all of the Debtors' stipulations and admissions contained in this Interim Order, including the Debtors'

Stipulations, and all other waivers, releases, affirmations, and other stipulations as to the priority, extent, and validity as to the Prepetition Secured Parties' claims, liens, and interests contained in this Interim Order shall be of full force and effect and forever binding upon the Debtors, the Debtors' estates, and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases. Furthermore, if any such adversary proceeding or contested matter is timely and properly filed under the Bankruptcy Rules, the stipulations and admissions contained in this Interim Order, including the Debtors' Stipulations, shall nonetheless remain binding and preclusive on any Committee and any other person or entity except to the extent that such stipulations and admissions were expressly challenged in such adversary proceeding or contested matter prior to the Challenge Period Termination Date. Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including, without limitation, any Committee appointed in the Cases, standing or authority to pursue any cause of action belonging to the Debtors or their estates, including, without limitation any challenges (including a Challenge) with respect to the Prepetition Credit Documents, the Prepetition Liens, and the Prepetition Obligations, and a separate order of the Court conferring such standing on any Committee or other party-in-interest shall be a prerequisite for the prosecution of a Challenge by such Committee or such other party-in-interest.

13. DIP Termination Date. On the DIP Termination Date (defined below), (a) all DIP Obligations shall be immediately due and payable, all commitments to extend credit under the DIP Facility will terminate; (b) all authority to use Cash Collateral shall cease; provided, however, that during the Remedies Notice Period, the Debtors may use Cash Collateral to fund the Carve Out and pay payroll and other expenses critical to the administration of the Debtors' estates strictly in accordance with the Approved Budget, subject to such variances as permitted in the DIP Credit

Agreement; and (c) the DIP Secured Parties shall be otherwise entitled to exercise rights and remedies under the DIP Documents in accordance with this Interim Order. For the purposes of this Interim Order, the "**DIP Termination Date**" shall mean the "**Maturity Date**" as defined in the DIP Credit Agreement.

14. Events of Default. The occurrence of any of the following events, unless waived by the Required DIP Lenders in accordance with the terms of the DIP Documents, shall constitute an event of default (collectively, the "**Events of Default**"): (a) the failure of the Debtors to comply with or perform, in any material respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order; or (b) the occurrence of an "Event of Default" under the DIP Credit Agreement (subject to any applicable cure or grace period).

15. Rights and Remedies Upon Event of Default. Immediately upon the occurrence of and during the continuation of an Event of Default, or a Specified Maturity Date, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion, or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Remedies Notice Period, (a) the DIP Agent (at the direction of Required DIP Lenders) may declare (any such declaration shall be referred to herein as a "**Termination Declaration**") (i) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (ii) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the DIP Facility, (iii) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (iv) the application of the Carve Out through the delivery of the Carve Out Trigger Notice to the Borrower and (b) subject to Paragraph 13 above, the DIP Agent (at the

direction of Required DIP Lenders) may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of any such date a Termination Declaration is delivered and the DIP Termination Date shall be referred to herein as the "Termination Date"). The Termination Declaration shall not be effective until notice has been provided by electronic mail (or other electronic means) to counsel to the Debtors (Weil, Gotshal & Manges LLP), counsel to the Committee, if any, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties is hereby modified so that five (5) Business Days after the date a Termination Declaration is delivered (the "Remedies Notice Period"): (a) the DIP Agent (at the direction of Required DIP Lenders) shall be entitled to exercise its rights and remedies in accordance with the DIP Documents and this Interim Order to satisfy the DIP Obligations and DIP Superpriority Claims; and (b) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to the extent available in accordance with the applicable Prepetition Credit Documents and this Interim Order with respect to the Debtors' use of Cash Collateral; provided, however, for the avoidance of doubt the Debtors may continue to use Cash Collateral in accordance with Paragraph 13 of this Interim Order during the Remedies Notice Period. During the Remedies Notice Period, the Debtors, the Committee, if any, and/or any party in interest shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court. Except as set forth in this Paragraph 15 or otherwise ordered by the Court prior to the expiration of the Remedies Notice Period, upon the expiration of the Remedies Notice Period, the Debtors shall be deemed to have waived their right to and shall not be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of the DIP Agent, the DIP Escrow

Agent, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order. Unless the Court has determined that an Event of Default has not occurred and/or is not continuing or the Court orders otherwise, the automatic stay shall automatically be terminated as to all of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties (solely with respect to the use of Cash Collateral to the extent permitted hereunder) at the expiration of the Remedies Notice Period without further notice or order, and the DIP Agent (at the direction of Required DIP Lenders) and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, and in the Prepetition Credit Documents, as applicable, or as otherwise available at law without further order of or application or motion to this Court consistent with this Interim Order.

16. Limitation on Charging Expenses Against Collateral. Subject to entry of the Final Order granting such relief, no expenses of administration of the Cases or any Successor Cases or future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the Prepetition Collateral or the DIP Collateral (except to the extent of the Carve Out), the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties pursuant to sections 105(a) or 506(c) of the Bankruptcy Code or any similar principle of law or equity, without the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or the Prepetition Secured Parties.

17. Use of Cash Collateral. The Debtors are hereby authorized to use the Cash Collateral of the Prepetition Secured Parties, but solely for the purposes set forth in this Interim

Order and in accordance with the Approved Budget (subject to permitted variances as set forth in this Interim Order and the DIP Documents) including, without limitation, to make payments on account of the Adequate Protection Obligations provided for in this Interim Order and to make any transfers between Debtors necessary to comply with the terms of the DIP Documents and this Interim Order.

18. Expenses and Indemnification.

(a) The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, payments, expenses, and other amounts described in the DIP Documents as such amounts become due and without need to obtain further Court approval, including, without limitation, backstop, closing, arrangement or commitment fees (including all fees and other amounts owed to the DIP Lenders), the DIP Administrative Agent's fees, the DIP Collateral Agent's fees, and the DIP Escrow Agent's fees, the reasonable and documented out-of-pocket fees and disbursements of counsel and other professionals to the extent set forth in Paragraph 8(c) of this Interim Order, whether or not such fees arose before or after the Petition Date, all to the extent provided in this Interim Order or the DIP Documents. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date (as defined in the DIP Credit Agreement) all reasonable and documented fees, costs, and expenses, including the fees and expenses of counsel and advisors to the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, and the Prepetition Secured Parties, incurred on or prior to such date without the need for any professional engaged by the DIP Lenders, the DIP Agent, the DIP Escrow Agent, the Prepetition Agents, or the Prepetition Secured Parties to first deliver a copy of its invoice as provided for herein.

(b) The Debtors shall be jointly and severally obligated to pay all fees and expenses described above, which obligations shall constitute DIP Obligations. Provided no Fee Objection (defined below) has been made, the Debtors shall pay the reasonable and documented out-of-pocket professional fees, expenses, and disbursements of professionals to the extent provided for in paragraph 8(c) of this Interim Order (collectively, the "**Lender Professionals**" and, each, a "**Lender Professional**") as soon as reasonably practicable after a ten (10) Business Days review period commencing with the receipt by counsel for the Debtors, any Committee, and the U.S. Trustee of each of the invoices therefor (the "**Invoiced Fees**" and such review period, the "**Review Period**") and without the necessity of filing formal fee applications, including such amounts arising before the Petition Date. Invoiced Fees shall be in the form of an invoice summary for professional fees and categorized expenses incurred during the pendency of the Cases, and such invoice summary shall not be required to contain time entries, but shall include a general, brief description of the nature of the matters for which services were performed, and which may be redacted or modified to the extent necessary to delete any information subject to the attorney-client privilege, any work product doctrine, privilege or protection, common interest doctrine privilege or protection, any other evidentiary privilege or protection recognized under applicable law, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege, work product doctrine, privilege or protection, common interest doctrine privilege or protection, or any other evidentiary privilege or protection recognized under applicable law; provided that, upon the request of the U.S. Trustee prior to the expiration of the Review Period, the applicable Lender Professional shall provide more detailed support of the Invoiced Fees to the U.S. Trustee on a confidential basis. The Debtors, any Committee, or the U.S. Trustee (collectively, the "**Fee Notice Parties**") may dispute the payment of any portion of

the Invoiced Fees (the "**Disputed Invoiced Fees**") if, within the Review Period, a Fee Notice Party notifies the submitting party in writing setting forth the specific objections (a "**Fee Objection**") to the Disputed Invoiced Fees (to be followed by the filing with the Court, if necessary, of a motion or other pleading, with at least ten (10) days prior written notice to the submitting party of any hearing on such motion or other pleading). For the avoidance of doubt, the Debtors shall promptly pay in full all Invoiced Fees in accordance with the terms of this paragraph other than the Disputed Invoiced Fees.

(c) In addition, the Debtors will indemnify the DIP Lenders, the DIP Agent, the DIP Escrow Agent, and their respective affiliates, successors, and assigns and the officers, directors, employees, agents, attorneys, advisors, controlling persons, and members of each of the foregoing (each, an "**Indemnified Person**") and hold them harmless from and against all costs, expenses (including but not limited to reasonable and documented out-of-pocket legal fees and expenses), and liabilities arising out of or relating to the transactions contemplated hereby and any actual or proposed use of the proceeds of any loans made under the DIP Facility; provided that no such person will be indemnified for costs, expenses, or liabilities to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have been incurred solely by reason of the gross negligence, actual fraud, bad faith, or willful misconduct of such person (or their related persons).

19. No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

20. Section 507(b) Reservation. Subject to the Carve Out, nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate

protection provided to the Prepetition Secured Parties is insufficient to compensate for any Diminution in Value of their interests in the Prepetition Collateral during the Cases. Nothing contained herein shall be deemed a finding by the Court, or an acknowledgment by any of the Prepetition Secured Parties that the adequate protection granted herein does in fact adequately protect any of the Prepetition Secured Parties against any Diminution in Value of their respective interests in the Prepetition Collateral (including the Cash Collateral).

21. Insurance. Until the DIP Obligations have been indefeasibly paid in full, at all times the Debtors shall maintain casualty and loss insurance coverage for the Prepetition Collateral and the DIP Collateral on the terms set forth in the DIP Documents.

22. No Waiver for Failure to Seek Relief. The failure or delay of the DIP Agent, the DIP Escrow Agent, or the Required DIP Lenders to exercise rights and remedies under this Interim Order, the DIP Documents, or applicable law, as the case may be, shall not constitute a waiver of their respective rights hereunder, thereunder, or otherwise.

23. Perfection of the DIP Liens and Adequate Protection Liens.

(a) The DIP Agent, the DIP Escrow Agent, and the Prepetition Agents are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, deposit account control agreements, notices of lien, or similar instruments in any jurisdiction in order to validate and perfect the liens and security interests granted hereunder. Whether or not the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) shall choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, such liens and security interests shall be deemed valid, perfected, allowed,

enforceable, non-avoidable, and not, subject to the Challenge Period, subject to challenge, dispute, or subordination as of the date of entry of this Interim Order. If the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) determine to file or execute any financing statements, agreements, notice of liens, or similar instruments, the Debtors shall cooperate and assist in any such execution and/or filings as reasonably requested by the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the automatic stay shall be modified to allow such filings.

(b) A certified copy of this Interim Order may be filed with or recorded in filing or recording offices by or on behalf of the DIP Agent (at the direction of Required DIP Lenders), the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders) in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording; provided, however, that notwithstanding the date of any such filing, the date of such perfection shall be the date of this Interim Order.

(c) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the

Bankruptcy Code, subject to applicable law. Any such provision shall have no force and effect with respect to the granting of the DIP Liens and the Adequate Protection Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in accordance with the terms of the DIP Credit Agreement or this Interim Order, subject to applicable law.

24. Reserved.

25. Release. Subject to the rights and limitations set forth in Paragraphs E(v) and 12 of this Interim Order, and with respect to the DIP Secured Parties, effective upon entry of this Interim Order, and with respect to the Prepetition Secured Parties, effective upon entry of the Final Order, each of the Debtors and the Debtors' estates, on their own behalf and on behalf of each of their predecessors, their successors, and assigns, shall, to the maximum extent permitted by applicable law, unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the DIP Secured Parties, and each of the Prepetition Secured Parties, and each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, and predecessors in interest, each in their capacity as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description that exist on the date hereof with respect to or relating to the DIP Obligations, the DIP Liens, the DIP Documents, the

Prepetition Obligations, the Prepetition Liens, or the Prepetition Credit Documents, as applicable, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the DIP Secured Parties and the Prepetition Secured Parties; provided that nothing in this paragraph shall in any way limit or release the obligations of any DIP Secured Party under the DIP Documents.

26. Credit Bidding. Subject to the terms of the RSA, section 363(k) of the Bankruptcy Code and, solely with respect to the Prepetition First Lien Agent and the Prepetition Second Lien Agent, entry of the Final Order, the DIP Agent (at the direction of the Required DIP Lenders), the Prepetition First Lien Agent (at the direction of the Required Prepetition First Lien Lenders), or the Prepetition Second Lien Agent (at the direction of the Required Prepetition Second Lien Lenders) shall have the right to credit bid (either directly or through one or more acquisition vehicles), up to the full amount of the underlying lenders' respective claims, including, for the avoidance of doubt, Adequate Protection Superpriority Claims, if any, in any sale of all or any portion of the Prepetition Collateral or the DIP Collateral, including, without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any chapter 11 plan subject to confirmation under Bankruptcy Code section 1129(b)(2)(A)(ii)-(iii).

27. Preservation of Rights Granted Under this Interim Order.

(a) Unless and until all DIP Obligations are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Prepetition Secured Parties shall: (i) have no right to and shall take no action to foreclose upon, or recover in connection with, the liens granted thereto pursuant to the Prepetition Credit Documents or this

Interim Order, or otherwise seek to exercise or enforce any rights or remedies against such DIP Collateral; and (ii) not file any further financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or otherwise take any action to perfect their security interests in the DIP Collateral, except as set forth in Paragraph 23 herein.

(b) In the event this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise, any liens or claims granted to the DIP Secured Parties or the Prepetition Secured Parties hereunder arising prior to the effective date of any such vacatur, reversal, or modification of this Interim Order shall be governed in all respects by the original provisions of this Interim Order, including entitlement to all rights, remedies, privileges, and benefits granted herein, and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits afforded in section 364(e) of the Bankruptcy Code.

(c) Unless and until all DIP Obligations, Prepetition Obligations, and Adequate Protection Payments are indefeasibly paid in full, in cash, and all commitments to extend credit under the DIP Facility are terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly (i) except as permitted under the DIP Documents or, if not provided for therein, with the prior written consent of the DIP Agent (at the direction of Required DIP Lenders), the DIP Escrow Agent, the Required DIP Lenders, the Prepetition First Lien Agent (at the direction of Required Prepetition First Lien Lenders), the Required Prepetition First Lien Lenders, the Prepetition Second Lien Agent (at the direction of Required Prepetition Second Lien Lenders), and the Required Prepetition Second Lien Lenders, (x) any modification, stay, vacatur, or amendment of this Interim Order or (y) a priority claim for any administrative expense or unsecured claim against any of the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in

sections 503(b), 507(a), or 507(b) of the Bankruptcy Code) in any of the Cases, *pari passu* with or senior to the DIP Superpriority Claims, the Adequate Protection Superpriority Claims, or the Prepetition Obligations, or (z) any other order allowing use of the DIP Collateral; (ii) except as permitted under the DIP Documents (including the Carve Out), any lien on any of the DIP Collateral or the Prepetition Collateral with priority equal or superior to the DIP Liens, the Adequate Protection Liens or the Prepetition Liens, as applicable; (iii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order; (iv) except as set forth in the DIP Documents, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor; (v) an order converting or dismissing any of the Cases; (vi) an order appointing a chapter 11 trustee in any of the Cases; or (vii) an order appointing an examiner with enlarged powers in any of the Cases.

(d) Notwithstanding any order dismissing any of the Cases entered at any time, (x) the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations and Adequate Protection Payments are indefeasibly paid in full, in cash (and such DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Superpriority Claims, and the other administrative claims granted pursuant to this Interim Order, shall, notwithstanding such dismissal, remain binding on all parties in interest); and (y) to the fullest extent permitted by law the Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens, and security interests referred to in clause (x) above.

(e) Except as expressly provided in this Interim Order or in the DIP Documents, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Agent, the DIP Escrow Agent, the DIP Lenders, and the Prepetition Secured Parties granted by the provisions of this Interim Order and the DIP Documents shall survive, and shall not be modified, impaired, or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7, dismissing any of the Cases, terminating the joint administration of these Cases or by any other act or omission, (ii) the entry of an order approving the sale of any Prepetition Collateral or DIP Collateral pursuant to section 363(b) of the Bankruptcy Code, or (iii) the entry of an order confirming a chapter 11 plan in any of the Cases. Pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors have waived any discharge as to any remaining DIP Obligations or Adequate Protection Obligations. The terms and provisions of this Interim Order and the DIP Documents shall continue in these Cases, in any Successor Cases if these Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code. The DIP Liens, the DIP Superpriority Claims, the Adequate Protection Liens, the Adequate Protection Superpriority Claims, and all other rights and remedies of the DIP Secured Parties and the Prepetition Secured Parties granted by the provisions of this Interim Order shall continue in full force and effect until the DIP Obligations and the Adequate Protection Payments are indefeasibly paid in full, in cash (or, with respect to the DIP Obligations, otherwise satisfied in a manner agreed to by the Required DIP Lenders, the DIP Agent (acting at the direction of the Required DIP Lenders), and the DIP Escrow Agent).

(f) Other than as set forth in this Interim Order, neither the DIP Liens nor the Adequate Protection Liens shall be made subject to or *pari passu* with any lien or security interest

granted in any of the Cases or arising after the Petition Date, and neither the DIP Liens nor the Adequate Protection Liens shall be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code.

28. Limitation on Use of DIP Facility Proceeds, DIP Collateral, and Cash Collateral. Notwithstanding anything to the contrary set forth in this Interim Order, none of the DIP Facility, the DIP Collateral, the Prepetition Collateral, including Cash Collateral, or the Carve Out or proceeds thereof may be used: (a) to investigate (including by way of examinations or discovery proceedings), initiate, seek standing with respect to, assert, prosecute, join, commence, support, or finance the initiation or prosecution of any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other litigation of any type (i) against any of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such), and each of their respective affiliates, officers, directors, employees, agents, representatives, attorneys, consultants, financial advisors, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, any so-called "lender liability" claims and causes of action, or seeking relief that would impair the rights and remedies of the DIP Secured Parties or the Prepetition Secured Parties (each in their capacities as such) under the DIP Documents, the Prepetition Credit Documents, or this Interim Order, including, without limitation, for the payment of any services rendered by the professionals retained by the Debtors or any Committee appointed in these Cases in connection with the assertion of or joinder in any claim, counterclaim, action, suit, arbitration, proceeding, application, motion, objection, defense, adversary proceeding, or other contested matter, the purpose of which is to seek, or the result of which would be to obtain, any order, judgment, determination, declaration, or similar

relief that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties to recover on the DIP Collateral or the Prepetition Collateral or seeking affirmative relief against any of the DIP Secured Parties or the Prepetition Parties related to the DIP Obligations or the Prepetition Obligations; (ii) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the DIP Obligations or the Prepetition Obligations, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', and the Prepetition Secured Parties' liens or security interests in the DIP Collateral or Prepetition Collateral, as applicable; or (iii) for monetary, injunctive, or other affirmative relief against the DIP Secured Parties or the Prepetition Secured Parties, or the DIP Agent's, the DIP Escrow Agent's, the DIP Lenders', or the Prepetition Secured Parties' respective liens on or security interests in the DIP Collateral or the Prepetition Collateral, as applicable, that would impair the ability of any of the DIP Secured Parties or the Prepetition Secured Parties, as applicable, to assert or enforce any lien, claim, right, or security interest or to realize or recover on the DIP Obligations or the Prepetition Obligations, to the extent applicable; (b) for objecting to or challenging in any way the legality, validity, priority, perfection, or enforceability of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations, or by or on behalf of the DIP Agent, the DIP Escrow Agent, and the DIP Lenders related to the DIP Obligations; (c) for asserting, commencing, or prosecuting any claims or causes of action whatsoever, including, without limitation, any Avoidance Actions related to the DIP Obligations, the DIP Liens, the Prepetition Obligations, or the Prepetition Liens; or (d) for prosecuting an objection to, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of: (x) any of the DIP Liens or any other rights or interests of the DIP Agent, the DIP Escrow Agent, or the DIP Lenders related to the DIP Obligations or the DIP Liens, or (y) any of the Prepetition Liens or any

other rights or interests of any of the Prepetition Secured Parties related to the Prepetition Obligations or the Prepetition Liens; provided that no more than $50,000 of the proceeds of the DIP Facility, the DIP Collateral, or the Prepetition Collateral, including the Cash Collateral, in the aggregate, may be used by any Committee appointed in these Cases, if any, solely to investigate, within the Challenge Period, the claims, causes of action, adversary proceedings, or other litigation against the Prepetition Secured Parties solely concerning the legality, validity, priority, perfection, enforceability or extent of the claims, liens, or interests (including the Prepetition Liens) held by or on behalf of each of the Prepetition Secured Parties related to the Prepetition Obligations. Nothing contained in this Paragraph 28 shall prohibit the Debtors from responding or objecting to or complying with discovery requests of any Committee, in whatever form, made in connection with such investigation or the payment from the DIP Collateral (including Cash Collateral) of professional fees related thereto or from contesting or challenging whether a Termination Declaration has in fact occurred.

29. Conditions Precedent. No DIP Lender shall have any obligation to make any DIP Loan under the respective DIP Documents unless all of the conditions precedent to the making of such extensions of credit under the applicable DIP Documents have been satisfied in full or waived in accordance with such DIP Documents.

30. Binding Effect; Successors and Assigns. The DIP Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties in interest in these Cases, including without limitation, the DIP Secured Parties, the Prepetition Secured Parties, any Committee appointed in these Cases, and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code, or

any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors) and shall inure to the benefit of the DIP Secured Parties and the applicable Prepetition Secured Parties; provided that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors. In determining to make any loan (whether under the DIP Credit Agreement, a promissory note or otherwise) to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates.

31. Limitation of Liability. Subject to entry of a Final Order, in determining to make any loan under the DIP Documents, permitting the use of Cash Collateral, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not, solely by reason thereof, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.* as amended, or any similar federal or state statute). Furthermore, nothing in this Interim Order or in the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Escrow Agent, the DIP Lenders, or any Prepetition Secured Parties of any liability for any claims arising from the prepetition or post-petition activities of any of the Debtors.

32. No Requirement to File Claim for DIP Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, none of the DIP Agent, the DIP Escrow Agent, or any DIP Lender shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the DIP Obligations, all of which shall be due and payable in accordance with the DIP Documents without the necessity of filing any such proof of claim or request for payment of administrative expenses, and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or enforceability of any of the DIP Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect the DIP Agent's, the DIP Escrow Agent's, or any DIP Lender's rights, remedies, powers, or privileges under any of the DIP Documents, this Interim Order, or applicable law. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

33. No Requirement to File Claim for Prepetition Obligations. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Court, including, without limitation, any order establishing a deadline for the filing of proofs of claim or requests for payment of administrative expenses under section 503(b) of the Bankruptcy Code, neither the Prepetition Agents nor any Prepetition Secured Parties shall be required to file any proof of claim or request for payment of administrative expenses with respect to any of the Prepetition Obligations or Adequate Protection Superpriority Claims; and the failure to file any such proof of claim or request for payment of administrative expenses shall not affect the validity, priority, or

enforceability of any of the Prepetition Credit Documents or of any indebtedness, liabilities, or obligations arising at any time thereunder or prejudice or otherwise adversely affect any Prepetition Agent's or any Prepetition Secured Party's rights, remedies, powers, or privileges under any of the Prepetition Credit Documents, this Interim Order, or applicable law. In the event any Prepetition Agent nevertheless files a proof of claim, such Prepetition Agent is hereby authorized to file a single consolidated master proof of claim for all applicable Prepetition Obligations arising under the applicable Prepetition Credit Documents and applicable Adequate Protection Superpriority Claims, and such master proof of claim shall be deemed to constitute the filing of such proof of claim in each of the Cases of any Debtor against whom a claim may be asserted under the applicable Prepetition Credit Documents or this Interim Order. The provisions set forth in this paragraph are intended solely for the purpose of administrative convenience and shall not affect the substantive rights of any party-in-interest or their respective successors-in-interest.

34. No Marshaling. Subject to entry of a Final Order granting such relief, the DIP Agent and the DIP Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral, and proceeds of the DIP Collateral shall be received and applied pursuant to this Interim Order and the DIP Documents notwithstanding any other agreement or provision to the contrary. Subject to entry of a Final Order granting such relief, the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the Prepetition Collateral.

35. Reserved.

36. Equities of the Case. The Prepetition Secured Parties shall each be entitled to all the rights and benefits of section 522(b) of the Bankruptcy Code, and, subject to and upon entry

of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to proceeds, product, offspring, or profits of any of the Collateral (including the Prepetition Collateral).

37. Final Hearing. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing, filed with the Court, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)). Further notice should be served upon; (i) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com)), (ii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)) by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**. In the event no objections to entry of the Final Order are timely received, this Court may enter such Final Order without need for the Final Hearing.

38. Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon execution hereof.

39. Retention of Jurisdiction. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: June 16th, 2020
Wilmington, Delaware

63 **MARY F. WALRATH**
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Initial Approved Budget

Project Study
Global Consolidated
Initial Approved Budget

Week Number	1	2	3	4	5	6	7	8	9	10
Week Ending	06/12/20	06/19/20	06/26/20	07/03/20	07/10/20	07/17/20	07/24/20	07/31/20	08/07/20	08/14/20
Operating Forecast										
Cash Receipts	7,366,129	7,033,970	9,417,178	7,208,216	4,714,145	5,963,146	4,981,788	9,264,077	6,709,218	6,178,481
Operational Disbursements										
Compensation & Benefits	(8,648,467)	(3,199,443)	(6,162,365)	(2,680,099)	(669,800)	(5,907,556)	(2,709,583)	(7,324,246)	(1,146,634)	(5,919,015)
Rent & Utilities	(273,285)	(205,510)	(187,733)	(422,550)	(273,285)	-	(55,510)	(187,733)	(420,385)	(273,285)
Other Operating Disbursements	(1,461,745)	(3,560,212)	(3,531,658)	(8,717,037)	(2,959,957)	(2,988,511)	(2,959,957)	(2,959,957)	(2,657,611)	(6,564,641)
Total Operational Disbursements	**(10,383,497)**	**(6,965,164)**	**(9,881,756)**	**(11,819,686)**	**(3,903,042)**	**(8,896,067)**	**(5,725,050)**	**(10,471,937)**	**(4,224,630)**	**(12,756,940)**
Non-Operational Disbursements										
Professional Fees	(7,696,422)	(600,000)	-	(140,000)	-	(150,000)	-	(2,650,000)	-	(42,951,234)
Debt Service	-	(3,300,000)	-	(711,858)	-	-	-	(691,011)	-	(4,850,000)
Total Non-Operational Disbursements	**(7,696,422)**	**(3,900,000)**	**-**	**(851,858)**	**-**	**(150,000)**	**-**	**(3,341,011)**	**-**	**(47,801,234)**
Taxes	(504,876)	(517,798)	(238,174)	(181,267)	(51,321)	(902,076)	(114,765)	(253,407)	(461,195)	(310,525)
Net Cash Flow	**(11,218,666)**	**(4,348,993)**	**(702,752)**	**(5,644,595)**	**759,782**	**(3,984,997)**	**(858,026)**	**(4,802,278)**	**2,023,393**	**(54,690,218)**
Cash transferred to Non-Debtors										
Cash Transferred	-	1,500,000	500,000		2,000,000		2,000,000		2,000,000	
Cash Transferred Cumulative	-	1,500,000	2,000,000	2,000,000	4,000,000	4,000,000	6,000,000	6,000,000	8,000,000	8,000,000
Liquidity										
Liquidity										
Cash	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410	46,922,721
AR Facility Availability	-	-	-	-	-	-	-	-	-	-
Revolver Availability	-	-	-	-	-	-	-	-	-	-
Less: Unavailable Foreign Cash	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)	(650,244)
Total Liquidity	**12,392,146**	**28,241,465**	**42,559,625**	**31,993,111**	**29,459,100**	**31,293,519**	**31,951,673**	**37,983,068**	**35,296,166**	**46,272,477**
Senior Secured Super-Priority TL										
Beginning Balance	-	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000
Additional Borrowing/(Repayment)	-	25,000,000	-	-	-	10,000,000	5,000,000	-	-	20,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	(60,000,000)
Ending Balance	-	25,000,000	25,000,000	25,000,000	25,000,000	35,000,000	40,000,000	40,000,000	40,000,000	-
New First Out TL										
Beginning Balance	-	-	-	-	-	-	-	-	-	-
Additional Borrowing/(Repayment)	-	-	-	-	-	-	-	-	-	50,000,000
New First Out TL Rollover	-	-	-	-	-	-	-	-	-	60,000,000
Ending Balance	-	-	-	-	-	-	-	-	-	110,000,000
AR Facility										
Beginning Balance	67,760,133	67,760,133	67,760,133	68,365,479	68,365,479	68,365,479	68,365,479	68,365,479	63,397,178	63,397,178
Plus: Net Borrowing	-	-	21,467,015	-	-	-	-	17,357,918	-	-
Less: Repayment	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**67,760,133**	**67,760,133**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**68,365,479**	**63,397,178**	**63,397,178**	**63,397,178**
Less: Restricted Cash Balance	(16,059,980)	(20,861,669)	(6,446,103)	(11,368,022)	(14,661,815)	(18,842,399)	(22,326,219)	(6,524,244)	(11,234,539)	(15,568,011)
AR Facility Pro Forma Ending Balance	**51,700,153**	**46,898,464**	**61,919,376**	**56,997,457**	**53,703,664**	**49,523,080**	**46,039,260**	**56,872,934**	**52,162,639**	**47,829,167**
Restricted Cash										
Beginning Balance	11,029,101	16,059,980	20,861,669	6,446,103	11,368,022	14,661,815	18,842,399	22,326,219	6,524,244	11,234,539
Plus: CIT Collections	5,030,879	4,801,689	6,446,103	4,921,919	3,293,793	4,180,584	3,483,820	6,524,244	4,710,295	4,333,471
Less: AR Facility Paydown	-	-	(20,861,669)	-	-	-	-	(22,326,219)	-	-
Ending Balance	**16,059,980**	**20,861,669**	**6,446,103**	**11,368,022**	**14,661,815**	**18,842,399**	**22,326,219**	**6,524,244**	**11,234,539**	**15,568,011**
Cash										
Beginning Balance	29,291,936	13,042,390	28,891,709	43,209,869	32,643,355	30,109,344	31,943,763	32,601,917	38,633,312	35,946,410
Change in Cash	(16,249,546)	15,849,318	14,318,160	(10,566,514)	(2,534,011)	1,834,419	658,154	6,031,396	(2,686,902)	10,976,310
Ending Balance	**13,042,390**	**28,891,709**	**43,209,869**	**32,643,355**	**30,109,344**	**31,943,763**	**32,601,917**	**38,633,312**	**35,946,410**	**46,922,721**

EXHIBIT 2

Form of DIP Credit Agreement

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

dated as of June [_], 2020

among

Pointwell Limited,
as the Parent,

Skillsoft Corporation,
as the Borrower

the several Lenders
from time to time party hereto,

and

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as the Administrative Agent, the Collateral Agent and the Escrow Agent

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SCHEDULES

EXHIBITS

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

SENIOR SECURED SUPER-PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of June [__], 2020, among Pointwell Limited, a limited liability company incorporated under the laws of Ireland with registration number 540778 (the "**Parent**"), SKILLSOFT CORPORATION, a Delaware corporation (the "**Borrower**"), as the borrower, the lending institutions from time to time parties hereto (each, a "**Lender**" and, collectively, the "**Lenders**"), and WILMINGTON SAVINGS FUND SOCIETY, FSB, as the Administrative Agent, the Collateral Agent and the Escrow Agent (such terms and each other capitalized term used but not defined in this preamble having the meaning provided in Section 1).

WHEREAS, on June [_], 2020 (the "**Petition Date**"), each Credit Party (together with any of its Subsidiaries and Affiliates that are or become debtors under the Chapter 11 Cases, collectively, the "**Debtors**", and each individually, a "**Debtor**") commenced Chapter 11 Case Nos. [___], as administratively consolidated at Chapter 11 Case No. [___] (collectively, the "**Chapter 11 Cases**" and each individually, a "**Chapter 11 Case**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, within four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada, Ltd., in its capacity as foreign representative on behalf of the Debtors, will file an application with The Court of Queen's Bench of New Brunswick (the "**Canadian Bankruptcy Court**") pursuant to Part IV of the CCAA to, among other things, recognize the Chapter 11 Cases as "foreign main proceedings" and grant certain customary related relief (the "**Canadian Recognition Proceeding**");

WHEREAS, prior to the Petition Date, certain of the Lenders provided financing to the Borrower pursuant to (i) that certain First Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition First Lien Agent**"), the lenders party thereto (the "**Pre-Petition First Lien Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition First Lien Credit Agreement**") and (ii) that certain Second Lien Credit Agreement dated April 28, 2014, among the Borrower, the other borrowers party thereto, Wilmington Savings Fund Society, FSB (as successor in interest to Barclays Bank PLC), as the administrative agent and collateral agent thereunder (collectively, the "**Pre-Petition Second Lien Agent**" and together with the Pre-Petition First Lien Agent, the "**Pre-Petition Agents**"), the lenders party thereto (the "**Pre-Petition Second Lien Lenders**" and together with the Pre-Petition First Lien Lenders, the "**Pre-Petition Lenders**"), and the other parties thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time through the Petition Date, the "**Pre-Petition Second Lien Credit Agreement**" and together with the Pre-Petition First Lien Credit Agreement, the "**Pre-Petition Credit Agreements**");

WHEREAS, as of the close of business on June [_], 2020, (i) the Pre-Petition First Lien Lenders under the Pre-Petition First Lien Credit Agreement were owed approximately $1,369,925,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition First Lien Credit Agreement) under the Pre-Petition First Lien Credit Agreement and (ii) the Pre-Petition Second Lien Lenders under the Pre-Petition Second Lien Credit Agreement were owed approximately $670,000,000 in outstanding principal amount plus interest, fees, costs and expenses and all other "Obligations" (as defined under the Pre-Petition Second Lien Credit Agreement) under the Pre-Petition Second Lien Credit Agreement;

WHEREAS, the "Obligations" under and as defined in each of the Pre-Petition Credit Agreements are secured by a security interest in substantially all of the existing and after-acquired assets of the Borrower and the Guarantors, subject to the exceptions set forth therein;

WHEREAS, the Borrower has requested, and, upon the terms set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured term loan credit facility of $60,000,000 (the "**Term Loans**"), which will be funded into the Loan Proceeds Account on the Funding Date, subject to certain conditions set forth herein, pursuant to the DIP Order and the Canadian DIP Recognition Order, to fund the costs and expenses related to the Chapter 11 Cases and the Canadian Recognition Proceeding and the general corporate purposes and working capital requirements of the Parent and its Subsidiaries during the pendency of the Chapter 11 Cases, solely pursuant to and in accordance with this Agreement and the Approved Budget;

WHEREAS, subject to the terms hereof, the DIP Order and the Canadian DIP Recognition Order, the Borrower and the Guarantors have agreed to secure all of their Obligations under the Credit Documents by granting to the Collateral Agent, for the benefit of the Administrative Agent, the Collateral Agent and the other Secured Parties, a security interest in and lien upon substantially all of their existing and after-acquired personal property; and

WHEREAS, the Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein.

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

Section 1. Definitions

1.1 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"**ABR**" shall mean for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Effective Rate *plus* 1/2 of 1%, (ii) the rate of interest in effect for such day as published in the Wall Street Journal (or comparable publication or service for publishing the "prime rate") as the "prime rate", and (iii) the rate per annum determined in the manner set forth in clause (e) of the definition of Eurocurrency Rate *plus* 1%; provided that notwithstanding the foregoing, in no event shall the ABR applicable to the Term Loans at any time be less than 2.00% per annum. Any change in the ABR due to a change in such rate published as the "prime rate" or in the Federal Funds Effective Rate or Eurocurrency Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"**ABR Loan**" shall mean each Loan bearing interest based on the ABR.

"**Actual Cash on Hand**" shall mean unrestricted cash of the Credit Parties and its Subsidiaries (other than the restricted cash of the Receivables Subsidiary, including any cash collected in respect of receivables that is held as collateral for the Receivables Facility) deposited in commercial banks located in the United States (but not including the amounts deposited in the Loan Proceeds Account) and Canada or otherwise subject to a Control Agreement.

"**Actual Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the amount of the line item "Cash Receipts" as determined by reference to the Approved Budget as then in effect.

"**Actual Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties and their Subsidiaries, (i) (a) the amount of Actual Cash on Hand plus (b) the amount of the proposed Withdrawal pursuant to any outstanding Withdrawal Notice *minus* (ii) the Unrestricted Cash on Hand.

"**Actual Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Actual Restructuring Related Amounts.

"**Actual Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees during such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non-Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Ad Hoc Group of Crossholder Lenders**" shall mean those certain Lenders represented by the Crossholder Lender Advisors.

"**Ad Hoc Group of Lenders**" shall mean those certain Lenders represented by the Specified Lender Advisors.

"**Administrative Agent**" shall mean Wilmington Savings Fund Society, FSB, as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent appointed pursuant to Section 12.9.

"**Administrative Agent's Office**" shall mean the Administrative Agent's address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"**Administrative Questionnaire**" shall have the meaning provided in Section 13.6(b)(ii)(D).

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

"**Affiliate**" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affiliated Institutional Lender**" shall mean any Affiliate of the Sponsor that is either a bona fide debt fund or that extends credit or buys loans in the ordinary course of business.

"**Affiliated Lender**" shall mean a Lender that is the Sponsor or any Affiliate thereof (other than the Parent or any other Subsidiary of the Parent, or any Affiliated Institutional Lender).

"**Agent Advisors**" shall mean Seward & Kissel LLP, as counsel, and such other firm or local counsel appointed on behalf of, collectively, the Administrative Agent and the Collateral Agent in each relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions).

"**Agent Parties**" shall have the meaning provided in Section 13.17(b).

"**Agents**" shall mean the Administrative Agent and the Collateral Agent.

"**Agreement**" shall mean this Credit Agreement.

"**Agreement Currency**" shall have the meaning provided in Section 13.19.

"**AML Legislation**" shall mean the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, applicable within Canada, including any rules, regulations, guidelines, ordinances, judgments or orders thereunder, as the same may be amended from time to time.

"**Anti-Terrorism Laws**" shall mean any law relating to terrorism, corruption, economic sanctions, or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control, the United Nations Security Council, the European Union, Her Majesty's Treasury (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

"**Applicable Margin**" shall mean, on any date, with respect to each Term Loan that is an (i) ABR Loan, 6.50% per annum and (ii) Eurocurrency Loan, 7.50% per annum.

"**Approved Budget**" shall mean the then most current budget prepared by the Borrower and approved by the Required Lenders in accordance with Section 9.18.

"**Approved Budget Variance Report**" shall mean a report provided by the Borrower to the Administrative Agent, the Specified Lender Advisors and the Crossholder Lender Advisors (a) showing, in each case, on a line item by line item and a cumulative basis, the Actual Cash Receipts, the Actual Operating Disbursement Amounts and the Actual Restructuring Related Amounts as of the last day of the Variance Testing Period then most recently ended, noting therein (i) all variances, on a cumulative basis, from the Budgeted Cash Receipts and the Budgeted Operating Disbursement Amounts for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance in such Variance Testing Period with the Permitted Variances and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the actions which the Borrower has taken or intend to take with respect thereto and (b) which such reports shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via email by any of the Specified Lender Advisors).

"**Approved Fund**" shall mean any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"**Asset Sale**" shall mean:

(i) the sale, conveyance, transfer, or other disposition, in each case, which results in the permanent disposition of the subject property, whether in a single transaction or a series of related transactions, of property or assets (each a "**disposition**") of the Parent or any Subsidiary, or

(ii) the issuance or sale of Equity Interests of any Subsidiary (other than preferred stock of Subsidiaries issued in compliance with Section 10.1), whether in a single transaction or a series of related transactions.

"**Asset Sale Prepayment Event**" shall mean any Asset Sale; provided that, with respect to any Asset Sale, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Asset Sales exceeds $250,000 (the "**Asset Sale Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Asset Sale Prepayment Trigger).

"**Assignment and Acceptance**" shall mean an assignment and acceptance substantially in the form of Exhibit F, or such other form as may be approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) and the Administrative Agent.

"**Attorney Costs**" shall mean all reasonable and documented out-of-pocket fees, expenses and disbursements of any law firm or other external legal counsel.

"**Authorized Officer**" shall mean, with respect to any Person, any individual holding the position of chairman of the board (if an officer), any executive officer, the Chief Executive Officer, the Chief Administrative Officer, the Chief Financial Officer, the Treasurer, the Chief People Officer, the Vice President-Finance, a Senior Vice President, a Director, a Manager, or any other senior officer or agent with express authority to act on behalf of such Person designated as such by the board of directors or other managing authority of such Person.

"**Bail-In Action**" shall mean the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"**Bail-In Legislation**" shall mean, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law or regulation for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule or (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Bank Account**" shall mean any Deposit Account, Securities Account and Commodity Account of any Credit Party, each as defined in the UCC, or, if such account is located in Canada, shall mean any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

"**Bankruptcy Code**" shall mean Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

"**Bankruptcy Court**" shall mean the "Bankruptcy Court" as defined in the recitals to this agreement or such other court having jurisdiction over the Chapter 11 Cases.

"**Bankruptcy Rules**" shall mean the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time be in effect and applicable to the Chapter 11 Cases.

"**Benefited Lender**" shall have the meaning provided in Section 13.9(a).

"**BIA**" means the *Bankruptcy and Insolvency Act* (Canada), RSC 1985, c. B-3, as amended.

"**Board**" shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

"**Borrower**" shall have the meaning provided in the preamble to this Agreement.

"**Borrower Materials**" shall have the meaning provided in Section 13.17(b).

"**Borrowing**" shall mean the Term Loans made on the Funding Date.

"**Budgeted Borrower Professional Fees**" shall mean with respect to any period, the amount that corresponds to the line item "Professional Fees" in the Approved Budget, as then in effect.

"**Budgeted Cash Receipts**" shall mean with respect to any period, the amount that corresponds to the line item "Cash Receipts" in the Approved Budget, as then in effect.

"**Budgeted Liquidity**" shall mean as of any date of determination, as the context requires, for the Credit Parties, the amounts set forth as of such date of unrestricted cash of the Credit Parties and its Subsidiaries in the Approved Budget.

"**Budgeted Operating Disbursement Amounts**" shall mean with respect to any period, the amount that corresponds to the line item "Total Operational Disbursements" in the Approved Budget as then in effect; provided, further, that in either case such amounts will not include Budgeted Restructuring Related Amounts.

"**Budgeted Restructuring Related Amounts**" shall mean with respect to any period, (a) the amount of financing, restructuring and professional fees for such period (including but not limited to, as reimbursement to any Secured Parties, the Specified Lender Advisors, the Crossholder Lender Advisors or the Agent Advisors, and including any fees payable to the United States Trustee or any other statutorily-appointed committee in the Chapter 11 Cases or court-officer in the Canadian Recognition Proceeding) that corresponds to the line item "Total Non Operational Disbursements" as determined by reference to the Approved Budget as then in effect, (b) interest, fees and other amounts paid in respect of the Loans and (c) adequate protection payments in respect of professional fees for loans issued under the Pre-Petition Credit Agreements.

"**Business Day**" shall mean any day excluding Saturday, Sunday, and any other day on which banking institutions in New York City and Wilmington, Delaware are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a Eurocurrency Loan, any fundings, disbursements, settlements, and payments in respect of any such Eurocurrency Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the applicable London interbank market.

"**Canadian Bankruptcy and Insolvency Law**" shall mean any federal, provincial or territorial Canadian law from time to time in effect relating to bankruptcy, winding-up, insolvency, reorganization,

receivership, plans of arrangement or relief or protection of debtors, including the BIA, the CCAA, the *Winding up and Restructuring Act* (Canada), the *Business Corporations Act* (New Brunswick) and any other applicable corporate legislation.

"**Canadian Bankruptcy Court**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Benefit Plan**" shall mean any pension, retirement, savings, profit sharing, health, medical, dental, disability, life insurance, welfare or other employee benefit plan, program, policy or practice, whether written or oral, funded or unfunded, registered or unregistered, which is sponsored, maintained or contributed to or required to be contributed to by any Credit Party or under which any Credit Party has any actual or potential liability in respect of its employees or former employees in Canada, other than a Canadian Pension Plan or a Canadian Statutory Plan.

"**Canadian Confirmation Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Confirmation Order in Canada, which order shall be in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Defined Benefit Plan**" shall mean a Canadian Pension Plan which contains a "defined benefit provision" as defined in subsection 147.1(1) of the Income Tax Act (Canada).

"**Canadian DIP Recognition Order**" shall mean the Canadian Supplemental Order, unless the Canadian Final Order shall have been entered, in which case it means the Canadian Final Order.

"**Canadian Final Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Final Order in Canada and providing for a super priority charge over the Canadian Property, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders in either case may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Canadian Interim Order**" shall mean, collectively, the Canadian Recognition Order and the Canadian Supplemental Order.

"**Canadian Pension Plan**" shall mean a "registered pension plan", as that term is defined in subsection 248(1) of the *Income Tax Act* (Canada), which is or was sponsored, administered or contributed to, or required to be contributed to by, any Credit Party or under which any Credit Party has any actual or potential liability.

"**Canadian Property**" shall mean all current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of the Debtors located in Canada.

"**Canadian Recognition Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing the Chapter 11 Cases as "foreign main proceedings" under Part IV of the CCAA, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the

Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Canadian Recognition Proceeding**" has the meaning set forth in the recitals of this Agreement.

"**Canadian Statutory Plan**" shall mean any government sponsored pension, employment insurance, parental insurance or worker compensation plan.

"**Canadian Supplemental Order**" shall mean an order of the Canadian Bankruptcy Court, among other things, recognizing and giving full force and effect to the Interim Order in Canada, providing for the CCAA DIP Lenders' Charge, granting a stay of proceedings in respect of the Debtors in Canada and granting certain customary additional relief in the Canadian Recognition Proceeding, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from either of the Specified Lender Advisors).

"**Capital Lease**" shall mean, as applied to any Person, any lease of any property (whether real, personal, or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person.

"**Capital Stock**" shall mean (i) in the case of a corporation, corporate stock, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights, or other equivalents (however designated) of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited), and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that "cash-settled phantom appreciation programs" in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

"**Capitalized Lease Obligation**" shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a Capital Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

"**Carve Out**" has the meaning assigned to such term in the DIP Order.

"**Carve Out Trigger Notice**" has the meaning assigned to such term in the DIP Order.

"**Cash Equivalents**" shall mean:

(i) Dollars,

(ii) (a) Euro, Pounds Sterling, Canadian Dollars, or any national currency of any Participating Member State in the European Union or (b) local currencies held from time to time in the ordinary course of business,

(iii) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government, Canadian government, Her Majesty's Government, or any country that is a member state of the European Union or any agency or instrumentality thereof the securities

of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,

(iv) certificates of deposit, time deposits, and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year, and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the Dollar Equivalent as of the date of determination) in the case of foreign banks,

(v) repurchase obligations for underlying securities of the types described in clauses (iii), (iv), and (ix) entered into with any financial institution meeting the qualifications specified in clause (iv) above,

(vi) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P and in each case maturing within 24 months after the date of creation thereof,

(vii) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 24 months after the date of creation or acquisition thereof,

(viii) readily marketable direct obligations issued by the federal government, any state, commonwealth, or territory of the United States, or the federal government or any province of Canada, in each case, any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition,

(ix) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition,

(x) solely with respect to any Foreign Subsidiary: (a) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (b) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "A-2" or the equivalent thereof or from Moody's is at least "P-2" or the equivalent thereof (any such bank being an "**Approved Foreign Bank**"), and in each case with maturities of not more than 24 months from the date of acquisition, and (c) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank, in each case, customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by such Foreign Subsidiary organized in such jurisdiction,

(xi) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States, Cash Equivalents shall also include investments of the type and maturity

described in clauses (i) through (ix) above of foreign obligors, which investments have ratings, described in such clauses or equivalent ratings from comparable foreign rating agencies, and

(xii) investment funds investing 90% of their assets in securities of the types described in clauses (i) through (ix) above.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (i) and (ii) above; provided that such amounts are converted into any currency listed in clauses (i) and (ii) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"**Cash Flow Forecast**" shall mean a consolidated weekly cash flow forecast commencing on the Wednesday before the Closing Date through January 27, 2021, which shall set forth, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period.

"**Cash Management Order**" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after the "first day" hearing, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), which among other matters authorizes the Debtors to maintain their existing cash management and treasury arrangements (as set forth in the Pre-Petition Term Loan Agreement) or such other arrangements as shall be acceptable to the Required Lenders in all material respects (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

"**Casualty Event**" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award in respect of any equipment, fixed assets, or real property (including any improvements thereon) to replace or repair such equipment, fixed assets, or real property; provided that, with respect to any Casualty Event, the Parent and its Subsidiaries shall not be required to make any prepayment otherwise required by Section 5.2 unless and until the aggregate amount of Net Cash Proceeds from all such Casualty Events, after giving effect to reinvestment rights set forth herein, exceeds $250,000 (the "**Casualty Prepayment Trigger**"), but then from all Net Cash Proceeds (excluding amounts below the Casualty Prepayment Trigger).

"**CCAA**" means the Companies' Creditors Arrangement Act (Canada), R.S.C 1985, c. C-36.

"**CCAA Administration Charge**" means the "Administration Charge" as defined in the Canadian Supplemental Order, in an amount not to exceed CAD$150,000.

"**CCAA DIP Lenders' Charge**" means the "DIP Lenders' Charge" as defined in the Canadian Supplemental Order.

"**CCAA Filing Date**" shall mean the date on which an application to commence the Canadian Recognition Proceeding is made to the Canadian Bankruptcy Court.

"**Change in Law**" shall mean (i) the adoption of any law, treaty, order, policy, rule, or regulation after the Closing Date, (ii) any change in any law, treaty, order, policy, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (iii) compliance by any Lender with any guideline, request, directive, or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law), including, for avoidance of doubt any such adoption, change or compliance in respect of (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules,

regulations, guidelines, or directives thereunder or issued in connection therewith and (b) all requests, rules, guidelines, requirements, or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority), or the United States or foreign regulatory authorities pursuant to Basel III regardless of the date enacted, adopted or issued.

"**Change of Control**" shall mean and be deemed to have occurred if (i) the Permitted Holders shall at any time not beneficially own, in the aggregate, directly or indirectly, at least a majority of the voting power of the outstanding voting stock of the Parent; (ii) [reserved]; (iii) at any time, a Change of Control under clause (i) of either Pre-Petition Credit Agreement shall have occurred; or (iv) the Parent shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Borrower. Notwithstanding the foregoing, the commencement of the Chapter 11 Cases shall not constitute a "Change of Control" hereunder.

"**Chapter 11 Cases**" has the meaning set forth in the recitals of this Agreement.

"**Chapter 11 Plan**" shall mean a chapter 11 plan of liquidation or reorganization in the Chapter 11 Cases in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders in all respects (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and consented to by the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), confirmed by an order (in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) of the Bankruptcy Court under the Chapter 11 Cases (which consent or satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), containing, among other things, (i) a release in favor of the Administrative Agent and the Lenders and their respective affiliates on the terms set forth in the RSA, and (ii) provisions with respect to the settlement or discharge of all claims and other debts and liabilities on the terms set forth in the RSA, as such plan of liquidation or reorganization may be modified, altered, amended or otherwise changed or supplemented with the prior written consent of the Administrative Agent and the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Chapter 11 Plan Disclosure Statement**" shall mean a disclosure statement to accompany the Chapter 11 Plan and provide adequate information to voting creditors as provided by section 1125(a)(1) in the Bankruptcy Code.

"**Charterhouse**" shall mean Charterhouse Capital Partners LLP.

"**Closing Date**" shall mean the date on which the conditions precedent set forth in Section 6.1 shall have been satisfied or waived, which date is June [_], 2020.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"**Collateral**" shall mean (i) all property pledged, charged, assigned or mortgaged or purported to be pledged, charged, assigned or mortgaged pursuant to the Security Documents, excluding in all events Excluded Property and (ii) (x) the "DIP Collateral" referred to in the DIP Order, it being understood that "Collateral" shall include all such "DIP Collateral" irrespective of whether any such property was excluded pursuant to the Pre-Petition Credit Documents and (y) the Canadian Property; provided that the Collateral shall in no event included Excluded Property.

"**Collateral Agent**" shall mean Wilmington Savings Fund Society, FSB, as collateral agent under the Security Documents, or any successor collateral agent appointed pursuant to Section 12.9.

"**Commitment Fee**" shall have the meaning provided in Section 4.1(a).

"**Commitments**" shall mean, with respect to each Lender (to the extent applicable), such Lender's Term Loan Commitment.

"**Communications**" shall have the meaning provided in Section 13.17.

"**Company Advisors**" shall means (i) Alix Partners and (ii) Houlhan Lokey.

"**Confidential Information**" shall have the meaning provided in Section 13.16.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Chapter 11 Plan in the Chapter 11 Cases (including, if applicable, to the extent combined with an order approving the Chapter 11 Plan Disclosure Statement) in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders (which satisfaction in each case of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Contractual Requirement**" shall have the meaning provided in Section 8.3.

"**Control Agreement**" shall mean an account control agreement that establishes the Collateral Agent's "control" over a Bank Account within the meaning of Section 8-106 or 9-104 of the UCC, as applicable, each in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower.

"**Credit Documents**" shall mean this Agreement, the Fee Letter, the Escrow Agreement, the Guarantees, the Security Documents, the Intercompany Note, any promissory notes issued by the Borrower pursuant hereto, any Withdrawal Notice, any other agreements, documents and instruments providing for or evidencing any other Obligations, and any other document or instrument executed or delivered at any time in connection with any Obligations, including any joinder agreement among holders of Obligations, to the extent such are effective at the relevant time, as each may be amended, restated, amended and restated, supplemented, modified, renewed or extended from time to time.

"**Credit Event**" shall mean the Closing Date, the Funding Date and each Withdrawal Date.

"**Credit Party**" shall mean the Parent, the Borrower, and the other Guarantors.

"**Crossholder Lender Advisors**" shall mean (a) Milbank LLP, as legal counsel and (b) Moelis & Company LLC, as financial advisor.

"**Debt Incurrence Prepayment Event**" shall mean any issuance or incurrence by the Parent or any Subsidiary of any Indebtedness not otherwise permitted to be incurred pursuant to Section 10.1 of this Agreement.

"**Debtor Relief Laws**" shall mean the Bankruptcy Code of the United States, Canadian Bankruptcy and Insolvency Law, the Insolvency Act 1986 under the laws of England and Wales, the provisions of law implemented pursuant to the Corporate Insolvency and Governance Bill dated 20 March 2020 under the laws of England and Wales and all other liquidation, conservatorship, bankruptcy, general assignment for

the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, administration, examinership or similar debtor relief laws of the U.S. or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Default**" shall mean any event, act, or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"**Defaulting Lender**" shall mean any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of Lender Default.

"**Deferred Net Cash Proceeds**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Designated Jurisdiction**" shall mean any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"**DIP Facility**" shall mean the funding of the Term Loans on the Funding Date.

"**DIP Order**" shall mean the Interim Order, unless the Final Order shall have been entered, in which case it means the Final Order.

"**Direction of the Required Lenders**" shall mean a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any of the Specified Lender Advisors (or any other Lender Advisor selected by the Required Lenders and designated in writing to the Administrative Agent), it being understood and agreed that the Administrative Agent and/or the Collateral Agent and/or the Escrow Agent can conclusively rely on any such written direction or instruction from such Specified Lender Advisor or designated Lender Advisor at the direction of the Required Lenders.

"**disposition**" shall have the meaning assigned such term in clause (i) of the definition of Asset Sale.

"**Disqualified Stock**" shall mean, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than solely for Qualified Stock), other than as a result of a change of control, asset sale, or similar event, in whole or in part, in each case, prior to the date that is 91 days after the Maturity Date; provided that (i) if such Capital Stock is issued to any plan for the benefit of employees of the Parent or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death, or disability and (ii) no Qualified PECS shall constitute Disqualified Stock.

"**Dollar Equivalent**" shall mean, at any time, (i) with respect to any amount denominated in Dollars, such amount, and (ii) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars, as determined by the Administrative Agent on the basis of the Spot Rate (determined on the most recent date of determination) for the purchase of Dollars with such currency.

"**Dollars**" and "**$**" shall mean dollars in lawful currency of the United States.

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

"**EEA Member Country**" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Environmental Claims**" shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation, or proceedings pursuant to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "**Claims**"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief relating to the presence Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata, and natural resources such as wetlands.

"**Environmental Law**" shall mean any applicable federal, state, provincial, territorial, foreign, or local statute, law, rule, regulation, ordinance, code, and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree, or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or protection of human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release, or threat of Release of Hazardous Materials.

"**Equity Interest**" shall mean Capital Stock and all warrants, options, or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

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

"**ERISA Affiliate**" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party or any Subsidiary thereof, is treated as a single employer under Section 414 (b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"**ERISA Event**" shall mean (i) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (ii) the existence

with respect to any Plan of a non-exempt Prohibited Transaction; (iii) any Reportable Event; (iv) the failure of any Credit Party, any Subsidiary thereof or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (v) a determination that any Pension Plan is in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (vi) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (vii) the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (viii) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (ix) the failure by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (x) the incurrence by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (xi) the receipt by any Credit Party, any Subsidiary thereof or any of its ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (xii) the failure by any Credit Party, any Subsidiary thereof, or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"**Escrow Agent**" shall mean the Escrow Agent under the Escrow Agreement, which shall initially be Wilmington Savings Fund Society, FSB, in its capacity as Escrow Agent.

"**Escrow Agreement**" shall mean an Escrow Agreement dated as of the Closing Date (as amended, restated, amended and restated, supplemented or otherwise modified from time to time) among the Borrower, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Loan Proceeds Account.

"**EU Bail-In Legislation Schedule**" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"**Eurocurrency Loan**" shall mean any Loan bearing interest at a rate determined by reference to the Eurocurrency Rate.

"**Eurocurrency Rate**" shall mean, for any Interest Period with respect to a Eurocurrency Loan, the rate per annum equal to the offered rate administered by ICE Benchmark Administration ("**LIBOR**") or a comparable or successor rate, which rate is approved by the Administrative Agent (at the Direction of the Required Lenders), on the applicable Reuters screen page (or such other commercially available source providing such quotations of LIBOR as designated by the Administrative Agent (at the Direction of the Required Lenders) from time to time) at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to one month commencing that date; provided that, in no event shall the Eurocurrency Rate be less than 1.00% per annum.

"**European Union Regulation**" shall have the meaning given to such term in Section 8.18.

"**Event of Default**" shall have the meaning provided in Section 11.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means, as to any Credit Party, (i) all Deposit Accounts or Securities Accounts that are used solely to hold cash, Cash Equivalents and other assets comprised solely of (a) funds used for payroll and payroll taxes and other employee benefit payments to any Credit Party's officers, directors, employees or consultants, and (b) all taxes required to be collected, remitted or withheld (including, without limitation, federal, state, provincial, territorial and foreign withholding taxes), including, without limitation, the employer's share thereof, (ii) any Deposit Account or Securities Accounts or Futures Account (other than any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada) that, individually, contain an average daily balance of less than $50,000 or in the aggregate, contain an average daily balance of less than $150,000 and (iii) any Securities Account and Futures Account, each as defined in the PPSA, and any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada that in the aggregate, contain an average daily balance of less than $250,000.

"**Excluded Property**" shall mean (a) [reserved], (b) [reserved], (c) any governmental licenses or state or local franchises, charters and authorizations to the extent security interest is prohibited by a Requirement of Law (excluding the proceeds therefrom), (d) pledges and security interests prohibited or restricted by any Requirements of Law, (e) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, (f) [reserved], (g) any assets where the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby as determined by the Required Lenders, (h) any Capital Stock of any Receivables Subsidiary, (i) [reserved], (j) [reserved] and (k) [reserved]; provided, however, that Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded Property referred to in clauses (a) through (k) (unless such proceeds, substitutions or replacements would constitute Excluded Property referred to in clauses (a) through (k)).

"**Excluded Subsidiary**" shall mean after giving effect to the DIP Order, (a) [reserved], (b) any Subsidiary of the Parent that is prohibited by any applicable Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Receivables Subsidiary, or (d) [reserved].

"**Excluded Taxes**" shall mean, with respect to any Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its net income or net profits, franchise (and similar) Taxes (imposed in lieu of net income Taxes) or branch profits Taxes (in each case, however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local, or foreign law), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) other than in the case of a Lender that is an assignee pursuant to a request by the Borrower under Section 13.7 (or that designates a new lending office pursuant to a request by the Borrower), any United States federal withholding Tax imposed on amounts payable to or for the account of a Lender pursuant to laws in force at the time such Lender acquires an interest in (or becomes a party to) any Credit Document (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the

applicable Credit Parties with respect to such withholding Tax pursuant to Section 5.4, (iii) any withholding Taxes attributable to a recipient's failure to comply with Section 5.4(e), (iv) [reserved] or (v) any withholding Tax imposed under FATCA.

"**Fair Market Value**" shall mean with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm's length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as determined in good faith by the Borrower.

"**FATCA**" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder, official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the date of this Agreement (or any amended or successor version described above), and any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing.

"**FCPA**" shall have the meaning provided in Section 8.20(c).

"**Federal Funds Effective Rate**" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to a financial institution selected by the Required Lenders (in consultation with the Borrower) on such day on such transactions, which such rate shall be administratively feasible for the Administrative Agent.

"**Fee Letter**" shall mean that certain Fee Letter dated the Closing Date between Wilmington Savings Fund Society, FSB and the Borrower.

"**Fees**" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"**Final Hearing Date**" shall mean the date on which the Final Order is entered by the Bankruptcy Court.

"**Final Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on a final basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Required Lenders (which satisfaction of the Required Lender in each case may be communicated via email from any of the Specified Lender Advisors)), which order has not been reversed or stayed or is otherwise subject to a timely filed motion for a stay, rehearing, reconsideration, appeal or any other review without the consent of the Required Lenders (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Financial Advisor Engagement Letters**" shall mean (i) that certain agreement executed as of April 1, 2019 between Greenhill & Co., LLC, the Parent and Gibson Dunn & Crutcher LLP and (ii) that certain agreement dated as of January 21, 2020 by and among Moelis & Company LLC, Milbank LLP, and the Parent.

"**Financial Officer**" shall mean the chief financial officer, principal accounting officer, treasurer or controller (or equivalent officer) of the Borrower.

"**Flood Insurance Laws**" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"**Flow of Funds Statement**" shall mean a flow of funds statement relating to payments to be made and credited by all of the parties on the Funding Date (including wire instructions therefor) as prepared by the Borrower and its financial advisor in consultation with (and approved by) the Administrative Agent and the Required Lenders (which such approval may be communicated via email from any of the Specified Lender Advisors).

"**Foreign Benefit Arrangement**" shall mean any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Credit Party**" shall mean the Parent and each Guarantor that is a Foreign Subsidiary.

"**Foreign Law Security Filing**" shall mean any filing or notification required to be made in any registry of a territory outside of the U.S. in order to perfect any security interest created pursuant to the Security Documents.

"**Foreign Plan**" shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Credit Party or any of its Subsidiaries.

"**Foreign Plan Event**" shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (i) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (ii) the failure to register or loss of good standing (if applicable) with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (iii) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the terms of such Foreign Plan or Foreign Benefit Arrangement.

"**Foreign Pledge Agreement**" shall mean each (a) pledge agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other pledge agreement executed by any Credit Party and governed by the laws of any jurisdiction (other than the United States) pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Security Agreement**" shall mean each (a) security agreement executed by any Credit Party that is listed on Schedule 1.1(a) and (b) each other security agreement executed by any Credit Party pursuant to Section 9.12 or 9.14 in form and substance reasonably satisfactory to the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) (other than, in each case, the Irish Security Documents).

"**Foreign Subsidiary**" shall mean each Subsidiary of the Parent that is not a U.S. Subsidiary.

"**Full Payment**" or "**Pay in Full**" or "**Paid in Full**" shall mean, with respect to any Obligations, the indefeasible, full and complete cash payment thereof, including any interest, fees and other charges accruing during the Chapter 11 Cases. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated as well.

"**Fund**" shall mean any Person (other than a natural Person) that is engaged or advises funds or other investment vehicles that are engaged in making, purchasing, holding, or investing in commercial loans and similar extensions of credit in the ordinary course.

"**Funding Date**" shall have the meaning set forth in Section 2.1.

"**GAAP**" shall mean generally accepted accounting principles in the United States, as in effect from time to time; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision, regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Furthermore, at any time after the Closing Date, the Borrower may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP and GAAP concepts shall thereafter be construed to refer to IFRS and corresponding IFRS concepts (except as otherwise provided in this Agreement); provided that any such election, once made, shall be irrevocable; provided, further, that any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Parent's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Borrower shall give written notice of any such election made in accordance with this definition to the Administrative Agent. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness. Notwithstanding any other provision contained herein, the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations.

"**Governmental Authority**" shall mean any nation, sovereign, or government, any state, province, territory, or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, taxing, regulatory, or administrative functions of or pertaining to government, including a central bank or stock exchange.

"**Granting Lender**" shall have the meaning provided in Section 13.6(g).

"**Guarantee**" shall mean (i) the Debtor-in-Possession Guarantee dated as of the Closing Date made by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time and (ii) any other guarantee of the Obligations made by a Subsidiary in form and substance reasonably acceptable to the Required Lenders (which satisfaction may be communicated by via email from any of the Specified Lender Advisors).

"**guarantee obligations**" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any primary obligor in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (i) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds

(a) for the purchase or payment of any such Indebtedness or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities, or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness, or (iv) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term guarantee obligations shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations or product warranties in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any guarantee obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"**Guarantors**" shall mean (i) each Subsidiary of the Parent that is party to a Guarantee on the Closing Date, (ii) each Subsidiary of the Parent that becomes a party to a Guarantee after the Closing Date pursuant to Section 9.11 or otherwise and (iii) the Parent; provided that (i) in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary) (ii) in no event shall any Immaterial Subsidiary be required to be a Guarantor (unless expressly requested by the Required Lenders in writing after the Closing Date) and (iii) in no event shall any Subsidiary that is described in clause (b) of the definition of "Excluded Subsidiary" be a Guarantor.

"**Hazardous Materials**" shall mean (i) any petroleum or petroleum products, radioactive materials, friable asbestos, polychlorinated biphenyls, and radon gas; (ii) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any Environmental Law; and (iii) any other chemical, material, or substance, which is prohibited, limited, or regulated due to its dangerous or deleterious properties or characteristics by, any Environmental Law.

"**Hedge Agreements**" shall mean (i) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

"**IFRS**" shall have the meaning given such term in the definition of GAAP.

"**Immaterial Subsidiary**" shall mean any Foreign Subsidiary as of the Closing Date, except to the extent that such Subsidiary is organized under the laws of Canada or any province thereof, Ireland, or England and Wales.

"**Impacted Loans**" shall have the meaning provided in Section 2.10(a).

"**incur**" shall have the meaning provided in Section 10.1.

"**Indebtedness**" shall mean, with respect to any Person, (i) any indebtedness (including principal and premium) of such Person, whether or not contingent (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures, or similar instruments or letters of credit or bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), or (d) representing any hedging obligations, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and hedging obligations) would appear as a net liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Parent solely by reason of push down accounting under GAAP shall be excluded, (ii) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (i) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (iii) to the extent not otherwise included, the obligations of the type referred to in clause (i) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person. The amount of Indebtedness of any Person for purposes of clause (iii) above shall (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

"**Indemnified Liabilities**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Person**" shall have the meaning provided in Section 13.5(a).

"**Indemnified Taxes**" shall mean (a) all Taxes, other than Excluded Taxes, imposed on or with respect to any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Initial Approved Budget**" shall mean the Approved Budget attached hereto as Exhibit B on the Closing Date; provided that, for the avoidance of doubt, the Initial Approved Budget shall not contemplate or include the funding or prefunding of any executive retention plan.

"**Initial Investors**" shall mean CCP IX LP No. 1, CCP IX LP No. 2 and CCP IX LP Co-Investment LP, and each of their respective Affiliates (excluding any operating portfolio companies of the foregoing).

"**Insolvent**" shall mean, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

"**Intellectual Property**" shall mean all U.S. and non-U.S. intellectual property in all jurisdictions throughout the world, including all (i) (a) patents; (b) copyrights and copyrightable works; (c) trademarks, service marks, trade names, logos, trade dress, and other indicia of origin; (d) trade secrets and know how; and (e) all other intellectual property rights in inventions, processes, developments, technology, software (both in source code and/or object code form), graphics, advertising materials, labels, package designs, website content, photographs, designs, data and databases and confidential, proprietary or non-public information; and, in each case, (a)–(e), including all registrations and applications to register the foregoing; and (ii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds (including in the form of royalty or settlement payments) therefrom.

"**Intercompany Note**" shall mean the amended and restated intercompany demand promissory note dated as of the Closing Date substantially in the form of Exhibit I delivered to the Administrative Agent.

"**Interest Period**" shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

"**Interim Order**" shall mean an order entered by the Bankruptcy Court approving the DIP Facility on an interim basis under the Bankruptcy Code, which order shall be in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole and absolute discretion (as such order may be amended, modified or extended in a manner satisfactory to the Administrative Agent and the Required Lenders) (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors), which order is not subject to a stay, injunction or other limitation not approved by the Administrative Agent and the Required Lenders (which satisfaction of the Required Lenders may be communicated in each case via an email from any of the Specified Lender Advisors).

"**Investment**" shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances, or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel, and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests, or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Parent in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment, or other amount received by any Credit Party or any of its Subsidiaries in respect of such Investment to the extent permitted under this Agreement (provided that, with respect to amounts received other than in the form of Cash Equivalents, such amount shall be equal to the Fair Market Value of such consideration).

"**Investment Grade Rating**" shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating organization.

"**Investment Grade Securities**" shall mean:

(i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(ii) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Credit Parties and their Subsidiaries,

(iii) investments in any fund that invest at least 90% in investments of the type described in clauses (i) and (ii) which fund may also hold immaterial amounts of cash pending investment or distribution, and

(iv) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"**Irish Debenture**" shall mean the debenture governed by the laws of Ireland, executed by any Foreign Credit Party incorporated in Ireland or holding assets in Ireland in form and substance reasonably satisfactory to the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Irish Obligors**" shall mean Pointwell Limited, Skillsoft Limited, Skillsoft Ireland Limited, Thirdforce Group Limited, SSI Investments I Limited, SSI Investments II Limited and SSI Investments III Limited.

"Irish Security Documents" shall mean the Irish Debenture and the Irish Share Charge and Security Assignment.

"**Irish Share Charge and Security Assignment**" shall mean the share charge and security assignment governed by the laws of Ireland, to be executed by any Credit Party (other than an Irish Obligor) that holds shares in an Irish Obligor or that is owed a debt by an Irish Obligor in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors) and the Borrower.

"**Judgment Currency**" shall have the meaning provided in Section 13.19.

"**Legal Reservations**" shall mean (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and principles of good faith and fair dealing, (b) applicable Debtor Relief Laws, (c) the existence of timing limitations with respect to the bringing of claims under applicable limitation laws and the defenses of acquiescence, set-off or counterclaim and the possibility that an undertaking to assume liability for, or to indemnify a Person against, non-payment of stamp duty may be void, (d) the principle that in certain jurisdictions and under certain circumstances a Lien granted by way of fixed charge may be re-characterized as a floating charge or that security purported to be constituted as an assignment may be re-characterized as a charge, (e) the principle that additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty or considered to be interest and thus void, (f) the principle that may prohibit restrictions in relation to a voluntary prepayment of loans bearing floating rates of interest and may restrict charging prepayment fees for a voluntary prepayment of such loans, (g) the principle that a court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant, (h) the principle that the creation or purported creation of collateral over any contract or agreement which is subject to a prohibition on transfer, assignment or charging may be void, ineffective or invalid and may give rise to a breach of the contract or agreement over which security has purportedly been created, (i) similar principles, rights and defenses under the laws of any relevant jurisdiction and (j) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions under this Agreement

"**Lender**" shall have the meaning provided in the preamble to this Agreement.

"**Lender Advisors**" shall mean (x) the Specified Lender Advisors, (y) the Crossholder Lender Advisors and (z) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders or the Ad Hoc Group of Crossholder Lenders and/or the Required Lenders.

"**Lender Default**" shall mean (i) the refusal or failure of any Lender to make available its portion of any incurrence of Loans, which refusal or failure is not cured within one business day after the date of such refusal or failure, unless such Lender notifies the Administrative Agent in writing that such refusal or failure is the result of such Lender's good faith determination that one or more conditions precedent to

funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in writing) has not been satisfied, (ii) the failure of any Lender to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one business day of the date when due, unless the subject of a good faith dispute, (iii) a Lender has notified, in writing, the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations under this Agreement or has made a public statement to that effect with respect to its funding obligations under this Agreement or a Lender has publicly announced that it does not intend to comply with its funding obligations under other loan agreements, credit agreements or similar facilities generally, (iv) a Lender has failed to comply with its funding obligations under this Agreement or (v) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

"**Lender-Related Distress Event**" shall mean, with respect to any Lender or any other Person that directly or indirectly controls such Lender (each, a "**Distressed Person**"), a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, or a custodian, conservator, administrator, administrative receiver, receiver, receiver and manager, trustee or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, or such Distressed Person, or any Person that directly or indirectly controls such Distressed Person or is subject to a forced liquidation or such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any governmental authority having regulatory authority over such Distressed Person to be, insolvent or bankrupt; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any Person that directly or indirectly controls such Lender by a governmental authority or an instrumentality thereof.

"**LIBOR**" shall have the meaning provided in the definition of Eurocurrency Rate.

"**Lien**" shall mean with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority, or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the UCC (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease or a license to Intellectual Property be deemed to constitute a Lien.

"**Loan**" shall mean any Term Loan.

"**Loan Proceeds Account**" shall mean a Loan Proceeds Account with the Escrow Agent into which the proceeds of the Loans shall be deposited and retained subject to withdrawal thereof by the Borrower pursuant to a Withdrawal Notice for use in accordance with the terms hereof and, for the avoidance of doubt, the Approved Budget or return thereof to the Lenders upon the occurrence of the Maturity Date.

"**Master Agreement**" shall have the meaning provided in the definition of the term "Hedge Agreement."

"**Material Adverse Effect**" shall mean a material adverse effect on (a) the business, assets, operations, properties, or condition (financial or otherwise) of the Parent and its Subsidiaries, taken as a whole (excluding (i) any matters publicly disclosed in writing or disclosed to the Administrative Agent and the Lenders in writing prior to the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, (ii) any matters disclosed in the schedules hereto, (iii) any matters disclosed in any first day pleadings or declarations and (iv) the filing of the Chapter 11 Cases or the Canadian Recognition Proceeding, the events and conditions related and/or leading up thereto and the effects thereof and any action required to be taken

under the Credit Documents or under the DIP Order or the Canadian DIP Recognition Order), (b) the ability of the Credit Parties, taken as a whole, to perform any of its obligations under this Agreement or any of the other Credit Documents, (c) the Collateral (taken as a whole) or the Collateral Agent's Liens (on behalf of itself and the other Secured Parties) (taken as a whole) or (d) the rights of, benefits available to, or remedies of the Agents, the Escrow Agent or the Lenders under any of the Credit Documents.

"**Maturity Date**" shall mean the earliest to occur of (a) the date that is three months after the Petition Date; provided that by written consent, Required Lenders may extend such maturity date to that date that is four months after the Petition Date, (b) the date on which the Obligations become due and payable pursuant to this Agreement, whether by acceleration or otherwise, (c) the effective date of a Chapter 11 Plan for the Debtors, (d) the date of consummation of a sale of all or substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code, (e) the first Business Day on which the Interim Order or the Canadian Supplemental Order expires by its terms, unless the Final Order or the Canadian Final Order, as applicable, has been entered and become effective prior thereto, (f) conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or any Credit Party shall file a motion or other pleading seeking the conversion of the Chapter 11 Cases to Chapter 7 of the Bankruptcy Code unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), (g) proceedings under or pursuant to the BIA have been commenced in respect of Skillsoft Canada, Ltd. unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from either of the Specified Lender Advisors), (h) dismissal or termination of any of the Chapter 11 Cases or the Canadian Recognition Proceeding, unless otherwise consented to in writing by the Required Lenders (which consent may be communicated via an email from any of the Specified Lender Advisors), and (i) the Final Order or the Canadian Final Order (once entered) is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders) (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Maximum Non-Debtor Investment Cap**" shall mean $8,000,000.

"**Maximum Withdrawal Amount**" shall mean (i) from the Funding Date until the entry of the Final Order, $30,000,000 and (ii) thereafter, all remaining amounts held in the Loan Proceeds Account; provided that the maximum amount of any requested Withdrawal shall not exceed the amount that would cause Actual Liquidity to exceed $30,000,000.

"**Moody's**" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"**Mortgage**" shall mean a mortgage, deed of trust, deed to secure debt, trust deed, or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors), the Collateral Agent and the Borrower, together with such terms and provisions as may be required by local laws, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

"**Mortgaged Property**" shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party, and each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.11 and 9.14.

"**Multiemployer Plan**" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which any Credit Party or ERISA Affiliate makes or is obligated to make contributions, or during the five preceding calendar years, has made or been obligated to make contributions.

"**Net Cash Proceeds**" shall mean, with respect to any Prepayment Event, (i) the cash proceeds (including payments from time to time in respect of installment obligations, if applicable, but only as and when received) received by or on behalf of any Credit Party in respect of a Prepayment Event (including (x) in the case of a casualty, insurance proceeds and (y) in the case of a condemnation or similar event, condemnation awards and similar payments), as the case may be, *less* (ii) the sum of:

(a) the amount, if any, of all taxes (including in connection with any repatriation of funds) paid or reasonably estimated to be payable by any Credit Party in connection with such Prepayment Event,

(b) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (a) above) (1) directly attributable to the assets that are the subject of such Prepayment Event and (2) retained by any Credit Party; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(c) the amount of any Indebtedness (other than under or pursuant to the Pre-Petition Credit Documents or any other Indebtedness outstanding as of the Petition Date) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(d) in the case of any Casualty Event, the amount of any proceeds that the Parent or any Subsidiary has reinvested in the business of the Parent or such Subsidiary solely in order to replace the property affected by such Casualty Event (the "**Deferred Net Cash Proceeds**"); provided that any portion of the Deferred Net Cash Proceeds that has not been so reinvested within 30 days after receipt thereof (or such longer date as the Required Lenders may agree in their sole discretion (which agreement may be communicated via email by any Specified Lender Advisor)) (the "**Reinvestment Period**") shall (1) be deemed to be Net Cash Proceeds of a Casualty Event on the first day after the Reinvestment Period ends and (2) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i),

(e) [reserved],

(f) in the case of any Asset Sale Prepayment Event, any funded escrow established pursuant to the documents evidencing any such sale or disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such sale or disposition; provided that the amount of any subsequent reduction of such escrow (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction solely to the extent that any Credit Party and/or any of its Subsidiaries receives cash in an amount equal to the amount of such reduction, and

(g) all reasonable and documented fees and out of pocket expenses paid by any Credit Party to third parties in connection with such Prepayment Event (for the avoidance of doubt, including, attorney's fees, investment banking fees, survey costs, title insurance premiums, and

related search and recording charges, transfer taxes, deed or mortgage recording taxes, underwriting discounts and commissions, other customary expenses, and brokerage, consultant, accountant, and other customary fees),

in each case only to the extent not already deducted in arriving at the amount referred to in clause (i) above.

"**Non-Bank Tax Certificate**" shall have the meaning provided in Section 5.4(e)(ii)(B)(3).

"**Non-Defaulting Lender**" shall mean and include each Lender other than a Defaulting Lender.

"**Non-U.S. Lender**" shall mean any Lender that is not a U.S. Person.

"**Notice of Borrowing**" shall have the meaning provided in Section 2.3(a).

"**Notice of Conversion**" shall have the meaning provided in Section 2.6(a).

"**Obligations**" shall mean all advances to, and debts, liabilities, obligations, covenants, and duties of, any Credit Party arising under any Credit Document or otherwise with respect to Loans, in each case, entered into with any Credit Party or any of its Subsidiaries, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy, examinership or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities, and other amounts payable by any Credit Party under any Credit Document.

"**OFAC Regulations**" shall have the meaning provided in Section 8.20(b).

"**Other Taxes**" shall mean all present or future stamp, registration, court or documentary Taxes or any other excise, intangible, mortgage recording, filing or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include (i) any Taxes that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("**Assignment Taxes**") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower or (ii) Excluded Taxes.

"**Overnight Rate**" shall mean, for any day, the Federal Funds Effective Rate.

"**Parent**" shall have the meaning provided in the preamble to this Agreement.

"**Parent Entity**" shall mean any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of the Parent.

"**Participant**" shall have the meaning provided in Section 13.6(c)(i).

"**Participant Register**" shall have the meaning provided in Section 13.6(c)(ii).

"**Participating Member State**" shall mean any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

"**Patriot Act**" shall have the meaning provided in Section 13.18.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"**Pension Plan**" shall mean any employee benefit pension plan (as defined in Section 3(2) of ERISA, but excluding any Multiemployer Plan) in respect of which any Credit Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Permitted Holders**" shall mean each of the Initial Investors and their respective Affiliates (other than any operating portfolio company of an Initial Investor) and members of management of the Parent (or its direct or indirect parent) who are holders of Equity Interests of the Parent (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates (other than any portfolio company of an Initial Investor) and such members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the total outstanding Equity Interests of the Parent or any other direct or indirect parent company of the Parent.

"**Permitted Investments**" shall mean:

(i) any Investment set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor); provided that any loans or advances to non-Debtor Subsidiaries shall not exceed the Maximum Non-Debtor Investment Cap;

(ii) any Investment in cash, Cash Equivalents, or Investment Grade Securities at the time such Investment is made;

(iii) investments (i) by any Credit Party in their respective Subsidiaries that are Credit Parties and (ii) by any Subsidiary of the Parent that is not a Credit Party in any of its Subsidiaries that is not a Credit Party;

(iv) loans or advances made (i) by any Credit Party to another Credit Party or (ii) made by any Subsidiary that is not a Credit Party to a Credit Party or any other Subsidiary that is not a Credit Party; provided that any such loans and advances made by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

(v) any Investment existing or contemplated on the Closing Date and, in each case, listed on Schedule 10.5;

(vi) Investments relating to any Receivables Subsidiary that, in the good faith determination of the board of directors of the Parent, are necessary or advisable to effect a Receivables Facility or any repurchases in connection therewith; provided that to the extent any Investments are made pursuant to this clause (vi), the amount of such Investments, together with the cumulative amount of all Investments made pursuant to this clause (vi), will be included in the report delivered pursuant to Section 9.18(c) that immediately follows the making of each such Investment;

(vii) investments necessary to effectuate the transactions contemplated by the RSA;

(viii) [reserved];

(ix) Investments consisting of extensions of trade credit in the ordinary course of business set forth in the Approved Budget or otherwise expressly consented to by the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor);

(x) any Investment in an aggregate amount not to exceed $2,000,000; and

(xi) investments constituting deposits described in clause (i) of the definition of the term "Permitted Liens".

"**Permitted Liens**" shall mean, with respect to any Person:

(i) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness), or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for the payment of rent or deposits made to secure obligations arising from contractual or warranty refunds, in each case incurred in the ordinary course of business;

(ii) Liens imposed by a Requirement of Law, such as carriers', warehousemen's, materialmen's, repairmen's, builders' and mechanics' Liens, arising in the ordinary course of business, in each case for sums not yet overdue for a period of more than 60 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(iii) Liens imposed by a Requirement of Law for taxes, assessments, or other governmental charges not yet overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP or for property taxes on property that the Borrower or one of its Subsidiaries, has determined in its good faith to abandon as no longer economically practical in its business or commercially desirable to maintain if the sole recourse for such tax assessment, charge, levy, or claim is to such property or are not required to be paid pursuant to Section 8.11 or the nonpayment of which is permitted or required under the Bankruptcy Code or Canadian Bankruptcy and Insolvency Law;

(iv) Liens in favor of issuers of performance, surety, bid, indemnity, warranty, release, appeal, or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(v) deposits securing obligations arising after the Petition Date required under or imposed by the Bankruptcy Code;

(vi) Liens securing Indebtedness permitted to be outstanding pursuant to clauses (a) or (b), (f) or (g) of Section 10.1;

(vii) Liens set forth on Schedule 10.2;

(viii) the Carve Out, the CCAA Administration Charge and the CCAA DIP Lenders' Charge;

(ix) Liens securing cash management services in the ordinary course of business and consistent with past practices;

(x) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment, or storage of such inventory or other goods;

(xi) leases, subleases, licenses, or sublicenses (including of Intellectual Property) granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Parent or any Subsidiary, are consistent with past practices and do not secure any Indebtedness to the extent in existence on the Closing Date or approved by the Required Lenders prior to the existence of such lease, sublease, license or sublicense (which approval may be communicated via email by any Specified Lender Advisor);

(xii) Liens in favor of the Parent, the Borrower, or any other Guarantor;

(xiii) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(xiv) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business and in accordance with the Approved Budget;

(xv) non-exclusive licenses of Intellectual Property granted in the ordinary course of business and in existence on the Closing Date;

(xvi) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.1(f) or Section 11.1(k);

(xvii) Liens in favor of customs and revenue authorities arising by any Requirement of Law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(xviii) Liens, in accordance with the Interim Order or Final Order, as applicable, (a) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (b) [reserved], and (c) in favor of banking or other financial institutions or other electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking or finance industry;

(xix) Liens granted by the Interim Order or Final Order, as applicable, and created pursuant to the Credit Documents to secure the Obligations;

(xx) Liens permitted under the Cash Management Order;

(xxi) with respect to any Foreign Subsidiary, other Liens and privileges arising mandatorily by any Requirement of Law; and

(xxii) other Liens securing obligations which do not exceed $100,000.

For purposes of this definition, the term Indebtedness shall be deemed to include interest on such Indebtedness.

"**Permitted Variance**" shall mean, commencing with the applicable Permitted Variance Commencement Date, (a) in respect of Actual Operating Disbursement Amounts, 15% for each Variance Testing Period and (b) in respect of Actual Cash Receipts, 15% for each Variance Testing Period.

"**Permitted Variance Commencement Date**" shall mean (i) with respect to Actual Operating Disbursement Amounts, the third full calendar week following the Petition Date and (ii) with respect to Actual Cash Receipts, the third full calendar week following the Petition Date.

"**Person**" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust, or other enterprise or any Governmental Authority.

"**Petition Date**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Plan**" shall mean, other than any Multiemployer Plan, any employee benefit plan (as defined in Section 3(3) of ERISA), including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be reasonably likely to be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Platform**" shall have the meaning provided in Section 13.17(a).

"**PPSA**" shall mean the Personal Property Security Act (New Brunswick), as amended from time to time, together with all regulations made thereunder; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by (i) a Personal Property Security Act as in effect in a Canadian jurisdiction other than New Brunswick or Quebec, or (ii) the Civil Code of Quebec, then "PPSA" shall mean the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable.

"**Pre-Petition**" shall mean the time period ending immediately prior to the filing of the Chapter 11 Cases.

"**Pre-Petition Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Collateral**" shall mean collectively, the "Collateral" as defined in the Pre-Petition First Lien Credit Agreement and the "Collateral" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Credit Agreements**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Credit Documents**" shall mean collectively, the "Credit Documents" as defined in the Pre-Petition First Lien Credit Agreements and the "Credit Documents" as defined in the Pre-Petition Second Lien Credit Agreements.

"**Pre-Petition First Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition First Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Indebtedness**" has the meaning assigned to such term in Section 10.5(c).

"**Pre-Petition Lenders**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Pre-Petition Obligations**" shall mean collectively, the "Obligations" as defined in the Pre-Petition First Lien Credit Agreement and the "Obligations" as defined in the Pre-Petition Second Lien Credit Agreement.

"**Pre-Petition Second Lien Agent**" shall have the meaning assigned to such term in the recitals of this Agreement.

"**Pre-Petition Second Lien Credit Agreement**" shall have the meaning assigned to such term in the recitals to this Agreement.

"**Prepack Scheduling Motion**" shall mean a motion filed by the Borrower with the Bankruptcy Court seeking entry of an order of the Bankruptcy Court scheduling a combined hearing with respect to the confirmation of the Chapter 11 Plan and the approval of the Chapter 11 Plan Disclosure Statement, in form and substance reasonably satisfactory to Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepack Scheduling Order**" shall mean an order by the Bankruptcy Court granting the Prepack Scheduling Motion, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors).

"**Prepayment Event**" shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event or Casualty Event.

"**Prohibited Transaction**" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"**Qualified PECs**" of any Person shall mean the yield bearing preferred equity certificates, yield free preferred equity certificates or other preferred equity certificates issued by any Credit Party (other than the Parent) to the Parent prior to the Closing Date and any other substantially similar preferred equity certificates.

"**Qualified Stock**" of any Person shall mean Capital Stock of such Person other than Disqualified Stock of such Person; provided that Qualified PECs shall constitute Qualified Stock.

"**Real Estate**" shall have the meaning provided in Section 9.1(e).

"**Receivables Facility**" shall mean the Credit Agreement (and related transaction documents) dated as of December 20, 2018 among Skillsoft Receivables Financing LLC, as borrower, the lenders from time to time party thereto and CIT Bank, N.A., as administrative agent and collateral agent, as such facility may be amended, restated, supplement or otherwise modified as of the Petition Date and as may be further amended, restated, supplemented or otherwise modified from time to time in a manner reasonably acceptable to the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor).

"**Receivables Subsidiary**" shall mean any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto or another Person formed for the purposes of engaging in a Receivables Facility in which a Credit Party or any of its Subsidiary makes an Investment and to which a Credit Party or any of its Subsidiary transfers accounts receivables and related assets. On the Closing Date, Skillsoft Receivables Financing LLC is the only Receivables Subsidiary.

"**Register**" shall have the meaning provided in Section 13.6(b)(iv).

"**Regulation T**" shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation U**" shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Regulation X**" shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"**Reinvestment Period**" shall have the meaning provided such term in the definition of Net Cash Proceeds.

"**Related Fund**" shall mean, with respect to any Lender that is a Fund, any other Fund that is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of such entity that administers, advises or manages such Lender.

"**Related Parties**" shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"**Release**" shall mean any release, spill, emission, discharge, disposal, escaping, leaking, pumping, pouring, dumping, emptying, injection, or leaching into the environment.

"**Remedies Notice Period**" shall have the meaning assigned to such term in the DIP Order.

"**Reorganization**" shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"**Reportable Event**" shall mean any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code), other than those events as to which notice is waived pursuant to DOL Reg. § 4043.

"**Required Lenders**" shall mean, at any date, Non-Defaulting Lenders having or holding 50.1% of the sum of (a) the Total Term Loan Commitment less the Term Loan Commitments of all Defaulting Lenders at such date and (b) the outstanding principal amount of the Term Loans (excluding Term Loans held by Defaulting Lenders) at such date; provided that Term Loan Commitments held by Affiliated Institutional Lenders shall not constitute more than 49.9% of the Term Loan Commitments in any calculation of the Required Lenders for the purpose of waivers or amendments under this Agreement.

"**Required Milestones**" shall mean the "Milestones" set forth in Section 9.21 of this Agreement and any "Milestones", or such similar term, as defined in the DIP Order or the RSA, as applicable.

"**Requirement of Law**" shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule, or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"**Resignation Effective Date**" shall have the meaning provided in Section 12.9(a).

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Restricted Investment**" shall mean an Investment other than a Permitted Investment.

"**Restricted Payment**" shall have the meaning provided in Section 10.5.

"**RSA**" shall mean the Restructuring Support Agreement dated as of June 12, 2020.

"**RSA Termination Event**" shall mean an event described under Section 5 of the RSA which with the passage of time or the taking of action thereunder would result in the termination of the RSA.

"**S&P**" shall mean Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"**Sale Leaseback**" shall mean any arrangement with any Person providing for the leasing by the Parent or any Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by any Credit Party or any of its Subsidiaries to such Person in contemplation of such leasing.

"**Sanction(s)**" shall mean any international economic sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"**SEC**" shall mean the Securities and Exchange Commission or any successor thereto.

"**Secured Parties**" shall mean the Administrative Agent, the Collateral Agent, the Escrow Agent and each Lender, in each case with respect to the DIP Facility and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the DIP Facility or the Collateral Agent with respect to matters relating to any Security Document.

"**Security Documents**" shall mean, collectively, the DIP Order, the Canadian DIP Recognition Order, the U.S. Pledge Agreement, the Foreign Pledge Agreements, the Irish Security Documents, the U.S. Security Agreement, the Foreign Security Agreements, the Mortgages, and each other security agreement or other instrument or document executed and delivered pursuant to Sections 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure the Obligations or to govern the lien priorities of the holders of Liens on the Collateral.

"**Specified Lender Advisors**" shall mean (i) Gibson, Dunn & Crutcher LLP, as legal counsel, (ii) Greenhill & Co., Inc., as financial advisor and (iii) any other financial advisor, auditor, attorney, accountant, appraiser, auditor, business valuation expert, environmental engineer or consultant, turnaround consultant, and other consultants, professionals and experts retained by the Ad Hoc Group of Lenders and/or the Required Lenders, in each case, taken as a whole.

"**Sponsor**" shall mean any of Charterhouse and its Affiliates and funds managed or advised by Charterhouse or its Affiliates but excluding operating portfolio companies of any of the foregoing.

"**Spot Rate**" for any currency shall mean the rate determined by the Administrative Agent consistent with its policies and procedures for obtaining a spot rate for such currency with another currency.

"**SPV**" shall have the meaning provided in Section 13.6(g).

"**Stock Equivalents**" shall mean all securities convertible into or exchangeable for Capital Stock and all warrants, options, or other rights to purchase or subscribe for any Capital Stock, whether or not presently convertible, exchangeable, or exercisable.

"**Subsidiary**" of any Person shall mean and include (i) any corporation more than 50% of whose Capital Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Capital Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (ii) any limited liability company, partnership, association, joint venture, or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time or (iii) in the case of any Credit Party incorporated in Ireland, any subsidiary of that Credit Party within the meaning of Sections 7 and 8 of the Companies Act 2014 (as amended) of Ireland. Unless otherwise expressly provided, all references herein to a Subsidiary shall mean a Subsidiary of the Parent.

"**Successor Case**" shall mean (i) with respect to the Chapter 11 Cases, any subsequent proceedings under Chapter 7 of the Bankruptcy Code, and (ii) with respect to the Canadian Recognition Proceeding, any subsequent proceedings under Canadian Bankruptcy and Insolvency Law.

"**Taxes**" shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings (including backup withholding), fees, or other similar charges imposed by any Governmental Authority and any interest, fines, penalties, or additions to tax with respect to the foregoing.

"**Term Loan Commitment**" shall mean, in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(b) under the Caption "Term Loan Commitment" as such Lender's Term Loan Commitment. The aggregate amount of the Term Loan Commitments as of the Closing Date is $60,000,000.

"**Term Loans**" shall have the meaning set forth in the recitals.

"**Title Policy**" shall have the meaning provided in Section 9.14(c).

"**Total Credit Exposure**" shall mean, at any date, the sum, without duplication, of (i) [reserved], (ii) the Total Term Loan Commitment at such date, and (iii) without duplication of clause (ii), the aggregate outstanding principal amount of all Term Loans at such date.

"**Total Term Loan Commitment**" shall mean the sum of the Term Loan Commitments of all Lenders.

"**Transaction Expenses**" shall mean any fees, costs, or expenses incurred or paid by any Parent Entity, the Parent, the Borrower, or any of their respective Affiliates in connection with the Transactions, this Agreement, the other Credit Documents, and the transactions contemplated hereby and thereby.

"**Transactions**" shall mean, collectively, the transactions contemplated by this Agreement, the Chapter 11 Cases, the Canadian Recognition Proceeding, the consummation of any other transactions in connection with the foregoing (including the payment of the fees and expenses incurred in connection with any of the foregoing, including to fund any original issue discount or upfront fees).

"**Transferee**" shall have the meaning provided in Section 13.6(e).

"**Type**" shall mean as to any Term Loan, its nature as an ABR Loan or a Eurocurrency Loan.

"**UCC**" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of any provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"**Unrestricted Cash on Hand**" shall mean all cash of any Subsidiary other than the Actual Cash on Hand.

"**U.S.**" and "**United States**" shall mean the United States of America.

"**U.S. Credit Parties**" shall mean the Borrower and any other U.S. Subsidiaries that are Guarantors.

"**U.S. Lender**" shall have the meaning provided in Section 5.4(e)(ii)(A).

"**U.S. Person**" shall mean any Person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**U.S. Pledge Agreement**" shall mean the Debtor-in-Possession Pledge Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Security Agreement**" shall mean the Debtor-in-Possession Security Agreement dated as of the Closing Date entered into by the U.S. Credit Parties party thereto, the other parties party thereto and the Collateral Agent for the benefit of the Secured Parties, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**U.S. Subsidiary**" shall mean any Subsidiary of the Parent that is organized under the laws of the United States, any state thereof, or the District of Columbia.

"**UK Financial Institution**" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"**UK Resolution Authority**" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"**Variance Testing Period**" means, as applicable, the cumulative period of four weeks ending on July 10, 2020 and every other calendar week thereafter.

"**Withdrawal**" shall mean a withdrawal from the Loan Proceeds Account made in accordance with Section 7.

"**Withdrawal Date**" shall mean the date of any Withdrawal.

"**Withdrawal Liability**" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"**Withdrawal Notice**" shall mean a notice substantially in the form attached hereto as Exhibit C to be delivered by the Borrower to the Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Loan Proceeds Account, signed by a Financial Officer of the Borrower.

"**Withholding Agent**" shall mean any Credit Party, the Administrative Agent and, in the case of any U.S. federal withholding Tax, any other applicable withholding agent.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised

under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein", "hereto", "hereof", and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Section, Exhibit, and Schedule references are to the Credit Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(h) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(i) All references to "knowledge" or "awareness" of any Credit Party or any Subsidiary thereof means the actual knowledge of an Authorized Officer of such Credit Party or such Subsidiary.

1.3 Accounting Terms.

(a) Except as expressly provided herein, all accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a consistent manner. If at any time any change in GAAP would affect the computation of any financial ratio set forth in any Credit Document or any financial definition of any other provision of any Credit Document, and the Borrower or the Required Lenders shall so request, the Administrative Agent, the Required Lenders (which request may be communicated via email by any Specified Lender Advisor) and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to approval by the Required Lenders and the Borrower); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP before such change, and Borrower shall provide to the

Administrative Agent and the Lenders within five days after delivery of each certificate or financial report required hereunder that is affected thereby a written statement of a Financial Officer of the Borrower setting forth in reasonable detail the differences that would have resulted if such financial statements had been prepared without giving effect to such change. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Parent or any Subsidiary at "fair value", as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any valuation of Indebtedness below its full stated principal amount as a result of application of Financial Accounting Standards Board Accounting Standards Update No. 2015-03, it being agreed that such Indebtedness shall at all times be valued at the full stated principal amount thereof. Notwithstanding the foregoing, all liabilities under or in respect of any lease (whether now outstanding or at any time entered into or incurred) that, under GAAP as in effect on the Closing Date, would be accrued as rental and lease expense and would not constitute a capital lease obligation in accordance with GAAP as in effect on the Closing Date shall continue to not constitute a capital lease obligation, in each case, for purposes of the covenants set forth herein and all defined terms as used therein.

1.4 [Reserved].

1.5 References to Agreements Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents), and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases, but only to the extent that such amendments, restatements, amendment, and restatements, extensions, supplements, modifications, replacements, refinancings, renewals, or increases are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting such Requirement of Law.

1.6 [Reserved].

1.7 Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission, or any other matter related to the rates in the definition of Eurocurrency Rate or with respect to any comparable or successor rate thereto.

1.8 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.9 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.10 Certifications. All certifications to be made hereunder by an officer or representative of a Credit Party shall be made by such a Person in his or her capacity solely as an officer or a representative of such Credit Party, on such Credit Party's behalf and not in such Person's individual capacity.

1.11 Compliance with Certain Sections. In the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), disposition, Restricted Payment, Affiliate transaction, Contractual Requirement, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions then permitted pursuant to any clause or subsection of Section 9.9 or any clause or subsection of Sections 10.1, 10.2, 10.3, 10.4, 10.5 or 0 then, such transaction (or portion thereof) at any time shall be allocated to one or more of such clauses or subsections within the relevant sections as determined by the Borrower in its sole discretion at such time.

1.12 [Reserved].

1.13 [Reserved].

1.14 [Reserved].

1.15 Effectuation of Transactions. All references herein to the Parent and the other Subsidiaries shall be deemed to be references to such Persons, and all the representations and warranties of the Credit Parties contained in this Agreement and the other Credit Documents shall be deemed made, in each case, after giving effect to the Transactions to occur on the Closing Date, unless the context otherwise requires.

1.16 [Reserved].

1.17 [Reserved].

Notwithstanding anything else in the Credit Documents, any reference in any of the Credit Documents to a Permitted Lien is not intended to subordinate or postpone, and shall not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any Lien created by any of the Credit Documents to any Permitted Lien.

Section 2. Amount and Terms of Credit.

2.1 Commitments. Subject to and upon the terms and conditions herein set forth and in the DIP Order and in accordance therewith, each Lender severally, and not jointly, agrees to make the Term Loans to the Borrower in an amount equal to such Lender's Commitment in a single borrowing within three Business Days of the date of the entry of the Interim Order (such date, the "**Funding Date**"). Each Lender's Commitment shall automatically be reduced by the amount of Loans funded in respect thereof on the Funding Date; provided that, notwithstanding anything herein to the contrary, all such Commitments shall terminate automatically and be reduced to zero on June [●], 2020 to the extent that the Funding Date has not occurred on or prior to such date (or such later date as agreed to by the Borrower and the Required Lenders (which agreement of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors)). Such Term Loans (i) will at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurocurrency Loans; provided that all Term Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term Loans of the same Type, (ii) may be repaid or prepaid (without premium or penalty) in accordance with the provisions hereof, but once repaid or prepaid, may not be reborrowed, (iii) shall not exceed for any such Lender the Term Loan Commitment of such Lender, (iv) shall not exceed in the aggregate the Total Term Loan Commitments and (v) shall be funded into the Loan Proceeds Account

on the Funding Date in accordance with Section 2.4(d). The Term Loans shall be available in Dollars and not later than the Maturity Date, all then unpaid Term Loans shall be repaid in full in Dollars.

2.2 [Reserved].

2.3 Notice of Borrowing.

(a) The Borrower shall give the Administrative Agent at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least one Business Days' prior written notice in the case of a Borrowing of Term Loans to be made on the Closing Date or three (3) Business Days in the case of a Borrowing of Term Loans to be made after the Closing Date (which notice shall be delivered electronically in .pdf or other electronic imaging format acceptable to the Administrative Agent). Such notice (a "**Notice of Borrowing**") shall specify (i) the aggregate principal amount of the Term Loans to be made, (ii) the date of the Borrowing, and (iii) whether the Term Loans shall consist of ABR Loans and/or Eurocurrency Loans and, if the Term Loans are to include Eurocurrency Loans, the Interest Period to be initially applicable thereto (which shall be one month). If no election as to the Type of Borrowing is specified in any such notice, then the requested Borrowing shall be a Eurocurrency Borrowing. If no Interest Period with respect to any Borrowing of Eurocurrency Loans is specified in any such notice, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given pursuant to this Section 2.3(a) (and the contents thereof), and of each Lender's pro rata share of the requested Borrowing.

2.4 Disbursement of Funds.

(a) No later than 1:00 p.m. (New York City time) on the Funding Date, each Lender shall make available its pro rata portion, if any, of the Borrowing requested to be made on such date in the manner provided below; provided that on the Funding Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrower, and the Administrative Agent for the purpose of consummating the Transactions.

(b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments, and in immediately available funds, to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will deposit the aggregate amounts so made available into the Loan Proceeds Account in Dollars in accordance with Section 2.4(d). Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrower, and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in the applicable currency. The Administrative Agent shall also be entitled to recover from such Lender or any Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

(d) Upon receipt of all requested funds pursuant to Section 2.4(b), the Administrative Agent will promptly (i) in accordance with the Flow of Funds Statement, (I) remit to the Borrower from such amounts, all fees and expenses of counsel of the Agents, the Escrow Agent and the Specified Lender Advisors (which the Borrower shall immediately remit by wire transfer such amounts to such counsel and advisors in accordance with the Flow of Funds Statement) and (II) deduct and apply all fees payable to the Agents and the Escrow Agent on the Funding Date in accordance with the Flow of Funds Statement (including for purposes of clause (I) and (II) above in connection with any fronting arrangement), (ii) in accordance with the Flow of Funds Statement, and subject to Sections 6 and Section 7, remit to the Borrower from such amounts the amount requested by the Borrower in the Withdrawal Notice, and (iii) remit the remaining amounts by promptly crediting such amount, in like funds, to the Loan Proceeds Account. The Loans shall be deemed made by the Lenders when so remitted and applied and so deposited to such account. For the avoidance of doubt, the full amount of all Loans will begin to accrue interest on the Funding Date.

(e) For the avoidance of doubt, the Administrative Agent shall have no Commitments to make Loans in its capacity as the Administrative Agent and the Administrative Agent's requirement to remit the Loan proceeds received from the Lenders in accordance with the provisions hereof shall be limited to the funds that it receives from the Lenders.

2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Maturity Date, the then outstanding Term Loans in Dollars.

(b) [Reserved].

(c) [Reserved].

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.6(a), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is a Term Loan, the Type of each Loan made, the currency in which it is made, the name of the Borrower and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder, and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that in the event of any inconsistency between the Register and any such account or subaccount, the Register shall govern, provided, further, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any

manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to such Borrower by such Lender in accordance with the terms of this Agreement.

(g) The Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Closing Date, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit G, as applicable, for the sole purpose of evidencing the Loans owing to such Lender. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 13.6) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

2.6 Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 (or the Dollar Equivalent thereof) of the outstanding principal amount of Term Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any Eurocurrency Loans as Eurocurrency Loans for an additional Interest Period; provided that (i) no partial conversion of Eurocurrency Loans shall be permitted, (ii) ABR Loans may not be converted into Eurocurrency Loans if an Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) Eurocurrency Loans may not be continued as Eurocurrency Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion shall be effected by the Borrower by giving the Administrative Agent notice at the Administrative Agent's Office prior to 12:00 noon (New York City time) at least (i) three Business Days prior, in the case of a conversion to Eurocurrency Loans (other than in the case of a notice delivered on the Funding Date, which shall be deemed to be effective on the Funding Date), or (ii) three Business Days prior in the case of a conversion into ABR Loans (each such notice, a "**Notice of Conversion**" substantially in the form of Exhibit K) specifying the Loans to be so converted, the Type of Loans to be converted into and, if such Loans are to be converted into a Eurocurrency Loans, the Interest Period to be initially applicable thereto will be one month's duration. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans. Until the Maturity Date, any Eurocurrency Loans will be continued as Eurocurrency Loans with an Interest Period of one month's duration.

(b) If any Event of Default is in existence at the time of any proposed continuation of any Eurocurrency Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such Eurocurrency Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of Eurocurrency Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrower shall be deemed to have elected to convert such Borrowing of Eurocurrency Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.

2.7 Pro Rata Borrowings. Each Borrowing of Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Term Loan Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to

be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation, under any Credit Document.

2.8 Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for ABR Loans *plus* the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each Eurocurrency Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin for Eurocurrency Loans *plus* the relevant Eurocurrency Rate.

(c) Notwithstanding the foregoing, unless otherwise elected by the Required Lenders (which election not to impose the default interest rate set forth in this Section 2.8(c) may be communicated via an email from any of the Specified Lender Advisors), upon the occurrence and during the continuation of an Event of Default, Loans and all other Obligations overdue hereunder shall bear interest, after as well as before judgment, at a rate per annum equal to 2% plus the rate otherwise applicable thereto.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in the same currency in which the Loan is denominated; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, monthly in arrears on the last Business Day of each month of the Borrower, (ii) in respect of each Eurocurrency Loan, on the last day of each Interest Period applicable thereto, and (iii) in respect of each Loan, (A) on any prepayment in respect thereof, (B) at maturity (whether by acceleration or otherwise), and (C) after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of Eurocurrency Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9 Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion in respect of the making of, or conversion into or continuation as, a Borrowing of Eurocurrency Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice of the Interest Period applicable to such Borrowing, which Interest Period shall be a one month period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of Eurocurrency Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of Eurocurrency Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period in respect of a Eurocurrency Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day; and

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any Eurocurrency Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

2.10 Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent or the Required Lenders and (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Eurocurrency Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such Eurocurrency Loan are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the applicable interbank market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurocurrency Rate; or

(ii) at any time, that such Lenders shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Eurocurrency Loans (including any increased costs or reductions attributable to Taxes, other than any increase or reduction attributable to Indemnified Taxes or Other Taxes) because of any Change in Law; or

(iii) at any time, that the making or continuance of any Eurocurrency Loan has become unlawful by compliance by such Lenders in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the applicable interbank market;

(such Loans, "**Impacted Loans**"), then, and in any such event, such Required Lenders (or the Administrative Agent or the Required Lenders, as applicable, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower, and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, Eurocurrency Loans shall no longer be available until such time as the Administrative Agent or the Required Lenders, as applicable, notifies the Borrower, the Administrative Agent (if applicable) and the Lenders that the circumstances giving rise to such notice by the Administrative Agent or the Required Lenders, as applicable, no longer exist (which notice shall be given at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrower with respect to Eurocurrency Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the

case of clause (ii) above, the Borrower shall pay to such Lenders, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Required Lenders, in their reasonable discretion shall determine) as shall be required to compensate such Lenders for such actual increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lenders, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lenders shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto), and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) promptly and, in any event, within the time period required by law.

Notwithstanding the foregoing, if the Administrative Agent or the Required Lenders, as applicable, has made the determination described in Section 2.10(a)(i)(x), the Required Lenders, in consultation with the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent or the Required Lenders, as applicable, revokes the notice delivered with respect to the Impacted Loans under clause (x) of the first sentence of the immediately preceding paragraph, (2) the Required Lenders or the affected Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (3) any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

(b) At any time that any Eurocurrency Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a Eurocurrency Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if a Notice of Borrowing or Notice of Conversion with respect to the affected Eurocurrency Loan has been submitted pursuant to Section 2.3 but the affected Eurocurrency Loan has not been funded or continued, cancel such requested Borrowing by giving the Administrative Agent written notice thereof on the same date that the Borrower was notified by Lenders pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected Eurocurrency Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such Eurocurrency Loan into an ABR Loan; provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy or liquidity of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy or liquidity occurring after the Closing Date, has or would have the effect of reducing the actual rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's or its parent's policies with respect to capital adequacy or liquidity), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such actual additional amount or amounts as will compensate such Lender or its parent for such actual reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date or to the extent such Lender is not imposing such charges on, or requesting such compensation from, borrowers (similarly situated to the Borrower hereunder) under comparable syndicated credit facilities similar to the DIP Facility. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written

notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) promptly following receipt of such notice.

(d) With respect to any alternative interest rate selected by the Required Lenders pursuant to this Section 2.10: (i) no Agent or the Escrow Agent shall be bound to follow or agree to any modification to this Agreement or any other Credit Document or any such rate that would increase or materially change or affect the duties, obligations or liabilities of any Agent or the Escrow Agent (including without limitation the imposition or expansion of discretionary authority), or reduce, eliminate, limit or otherwise change any right, privilege or protection of any Agent or the Escrow Agent, or would otherwise materially and adversely affect any Agent or the Escrow Agent, in each case in its reasonable judgment, without its express written consent (such consent not to be unreasonably withheld) and (ii) any such alternative interest rate shall be administratively feasible for the Administrative Agent.

2.11 Compensation. If (a) any payment of principal of any Eurocurrency Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Eurocurrency Loan as a result of a payment or conversion pursuant to Sections 2.5, 2.6, 2.10, 5.1, 5.2, or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of Eurocurrency Loans is not made as a result of a withdrawn Notice of Borrowing or a failure to satisfy borrowing conditions, (c) any ABR Loan is not converted into a Eurocurrency Loan as a result of a withdrawn Notice of Conversion, (d) any Eurocurrency Loan is not continued as a Eurocurrency Loan, as the case may be, as a result of a withdrawn Notice of Conversion or (e) any prepayment of principal of any Eurocurrency Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), promptly pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Eurocurrency Loan. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender as specified in this Section 2.11 and setting forth in reasonable detail the manner in which such amount or amounts were determined shall be delivered to the Borrower and shall be conclusive, absent manifest error.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or other material economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.10 or 5.4.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Sections 2.10 or 2.11 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Sections 2.10 or 2.11, as the case may be, for any such amounts incurred or accruing prior to the 181st day prior to the giving of notice to the Borrower; provided

that, if the circumstances giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

2.14 [Reserved].

2.15 [Reserved]

2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Requirement of Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 13.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.9 shall be applied at such time or times as follows: *first*, as may be determined by the Administrative Agent to the payment of any amounts owing by such Defaulting Lender to any Agent or the Escrow Agent hereunder; *second*, [reserved]; *third*, [reserved]; *fourth*, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) [reserved]; *sixth*, to the payment of any amounts owing to the Borrower, the Lenders as a result of any judgment of a court of competent jurisdiction obtained by the Borrower or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any fee payable under Section 4 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) Defaulting Lender Cure. If the Borrower notifies the Administrative Agent in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other

Lenders or take such other actions as may be necessary to cause the Term Loans to be held on a pro rata basis by the Lenders in accordance with their percentages of the Term Loan Commitments, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 3. [Reserved]

Section 4. Fees

4.1 Fees.

(a) The Borrower agrees to pay to the Administrative Agent in Dollars, for the account of each Lender (in each case pro rata according to the respective Commitments of all such Lenders), a commitment fee (the "**Commitment Fee**") on the Funding Date equal to 3.00% of the aggregate principal amount of the Term Loans.

(b) The Borrower agrees to pay (i) to the Agents and the Lenders, as applicable, for their respective accounts, the fees and other amounts due in accordance with the terms of the Fee Letter in accordance with the applicable terms thereof and (ii) to the Escrow Agent the fees set forth in the fee letter referenced in the Escrow Agreement.

(c) Notwithstanding the foregoing, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender pursuant to this Section 4.1, except as otherwise set forth in Section 2.16(a)(iii)(B).

Section 5. Payments

5.1 Voluntary Prepayments.

(a) The Borrower shall have the right to prepay Term Loans, in each case, without premium or penalty, in whole or in part from time to time on the following terms and conditions: (1) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice of the Borrower's intent to make such prepayment, the amount of such prepayment and (in the case of Eurocurrency Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 12:00 Noon (New York City time) (i) in the case of Eurocurrency Loans, three Business Days prior to the date of such prepayment, (ii) [reserved], (iii) in the case of ABR Loans, two Business Days prior to the date of such prepayment or (iv) [reserved], (2) each partial prepayment of (i) any Borrowing of Eurocurrency Loans shall be in a minimum amount of $5,000,000 (or the Dollar Equivalent thereof) and in multiples of $1,000,000 (or the Dollar Equivalent thereof) in excess thereof, (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $500,000 in excess thereof, and (iii) [reserved]; and (3) in the case of any prepayment of Eurocurrency Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrower shall, promptly after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required pursuant to Section 2.11.

5.2 Mandatory Prepayments.

(a) Term Loan Prepayments. Subject in all respects to the DIP Order, on each occasion that a

Prepayment Event occurs, the Borrower shall, within two Business Days after receipt of the Net Cash Proceeds of any Prepayment Event (or, in the case of Deferred Net Cash Proceeds, within two Business Days after the Reinvestment Period ends), prepay, in accordance with clause (c) below, Term Loans with an equivalent principal amount equal to 100% of the Net Cash Proceeds from such Prepayment Event, unless otherwise approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors). No prepayment pursuant to this Section 5.2(a) shall be required in respect of the sale or disposition of any Foreign Subsidiary's assets to the extent such prepayment would result in material adverse tax consequences (as reasonably determined by the Borrower in consultation with the Administrative Agent) or would be prohibited or restricted by applicable law.

(b) Reinvestment Period. Until the Reinvestment Period ends, the Parent or any Subsidiary shall apply the Net Cash Proceeds from such Casualty Event solely to reinvest in the business of the Parent or such Subsidiary in order to replace the property affected by such Casualty Event; provided that the Parent and the Subsidiaries will be deemed to have complied with this Section 5.2(b) if and to the extent that, within the Reinvestment Period after the Casualty Event that generated the Net Cash Proceeds, the Parent or such Subsidiary has reinvested such proceeds within the Reinvestment Period and, in the event any such proceeds are not reinvested within the Reinvestment Period, the Parent or such Subsidiary prepays the Loans in accordance with Section 5.2(a).

(c) Application to Repayment Amounts. Each prepayment required by Section 5.2(a) shall be allocated pro rata among the Loans based on the amounts due thereunder. With respect to each such prepayment, the Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 5.2(a) two Business Days after the date of realization or receipt of such Net Cash Proceeds. Each such notice shall be irrevocable, shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment, shall be substantially in the form of Exhibit D and which shall include a calculation of the amount of such prepayment to be applied to the Term Loans requesting that the Administrative Agent provide notice of such prepayment to each Lender.

5.3 Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto not later than 1:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent's Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such Loans are denominated and all other payments under each Credit Document shall, unless otherwise specified in such Credit Document, be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York City time) or, otherwise, on the next Business Day in the Administrative Agent's sole discretion) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day for purposes of calculating interest thereon. Except as otherwise provided herein, whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next

succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

(c) Pre-Default Allocation of Payments. At all times when Section 5.3(d) does not apply and except as otherwise expressly provided herein, monies to be applied to the Obligations and the Pre-Petition Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of the Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent in their capacity as such pursuant to any Credit Document, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(vii) *Last*, the balance, if any, to the Borrower or as otherwise required by law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category.

(d) Post-Default Allocation of Payments. Notwithstanding anything herein to the contrary, after the occurrence and during the continuation of an Event of Default, the Required Lenders may elect, in lieu of the allocation of payments set forth in Section 5.3(a), that monies to be applied to the Obligations, whether arising from payments by the Credit Parties, realization on Collateral, setoff or otherwise, shall, to the extent elected by the Required Lenders (in writing to the Administrative Agent), be allocated as follows (subject, in all respects, to the Carve Out and the CCAA Administration Charge):

(i) *First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs and fees and expenses of Agent Advisors payable under the Credit Documents) payable to the Agents and the Escrow Agent pursuant to any Credit Document in their capacity as such, until paid in full;

(ii) *Second*, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders pursuant to any Credit Document (including Attorney Costs and fees and expenses of the Lender Advisors payable under Section 13.5 and amounts payable under Section 2.10 or 5.4), ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) *Third*, to pay interest and principal due in respect of all Loans, until paid in full;

(iv) *Fourth*, to the payment of all other Obligations of the Credit Parties that are due and payable to the Administrative Agent, the Collateral Agent or the Escrow Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties (other than any Defaulting Lenders) on such date, until paid in full;

(v) *Fifth*, ratably to pay any Obligations that are that are due and payable to Defaulting Lenders, until paid in full;

(vi) *Sixth*, to pay any other Obligations until paid in full;

(vii) *Seventh*, to the Pre-Petition Agents for the payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements; and

(viii) *Last*, the balance, if any, after Full Payment of the Obligations, to the Borrower or as otherwise required by any Requirement of Law.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. The allocations set forth in this Section 5.3(d) may be changed by agreement among the Agents, the Escrow Agent and the Lenders without the consent of any Credit Party and are subject to Section 2.16 (regarding Defaulting Lenders); *provided* that, notwithstanding the foregoing, no amendment to Section 5.3(d) shall be permitted without the consent of the Borrower which would modify the priority of the Pre-Petition Obligations set forth therein. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. Appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Obligations otherwise set forth above in this Section 5.3(d). For the avoidance of doubt, nothing contained in this Agreement shall relieve or waive payment of the Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreements.

(e) If, except as otherwise expressly provided herein (subject in all respects to the Carve Out and the CCAA Administration Charge), any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other similarly situated Lender, then the Lender receiving such

greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to any Credit Party or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(g) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in any order determined by the Administrative Agent in its discretion.

5.4 Net Payments.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes.

(ii) If any Credit Party, the Administrative Agent or any other applicable Withholding Agent shall be required by applicable law to withhold or deduct any Taxes from any payment, then (A) such Withholding Agent shall withhold or make such deductions as are reasonably determined by such Withholding Agent to be required by applicable law, (B) such Withholding Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after such required withholding or deductions have been made (including any such withholding or deductions applicable to additional sums payable under this Section 5.4) each Lender (or, in the case of a payment to the Administrative Agent for its own account,

the Administrative Agent) receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of clause (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or timely reimburse the Administrative Agent or any Lender for the payment of any Other Taxes.

(c) Tax Indemnifications. Without limiting the provisions of clause (a) or (b) above, the Borrower shall indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after demand therefor, for the full amount of Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 5.4) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority as provided in this Section 5.4, the Borrower shall deliver to the Administrative Agent and the Lenders the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders and Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to withholding Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) whenever a lapse of time or change in circumstances renders such documentation obsolete, expired or inaccurate in any respect and (iii) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent. Each such Lender shall also promptly notify in writing the Borrower and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

Notwithstanding anything to the contrary in this Section 5.4, no Lender or the Administrative Agent shall be required to deliver any documentation that it is not legally eligible to deliver.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person (a "**U.S. Lender**") shall deliver to the Borrower and the Administrative Agent executed copies of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of U.S. federal withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:

(1) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(2) executed copies of Internal Revenue Service Form W-8ECI (or any successor form thereto);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit J-1, J-2, J-3 or J-4, as applicable, (a "**Non-Bank Tax Certificate**"), to the effect that such Non-U.S. Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and that no payments under any Credit Document are effectively connected with such Non-U.S. Lender's conduct of a United States trade or business and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor thereto);

(4) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), Internal Revenue Service Form W-8IMY (or any successor thereto), accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue service Form W-8BEN or W-8BEN-E and/or Internal Revenue Service Form W-9 (in each case, or any successor thereto), and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the portfolio interest exemption, a Non-Bank Tax Certificate of such beneficial owner(s)) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Tax Certificate(s) may be provided by the Non-U.S. Lender on behalf of the direct or indirect partner(s)); or

(5) executed copies of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

(C) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) On or before the date the Administrative Agent (or any successor thereto) becomes a party to this Agreement, such Administrative Agent shall provide to the Borrower two duly-signed properly completed copies of the documentation prescribed in clause (A) or (B) below, as applicable (together with any required attachments): (A) IRS Form W-9 or any successor thereto, or (B)(x) IRS Form W-8ECI, or any successor thereto with respect to payments, if any, received by the Administrative Agent for its own account, and (y) with respect to payments received on account of any Lender, executed copies of IRS Form W-8IMY (or any successor form) certifying that the Administrative Agent is either (a) a "qualified intermediary" or (b) a "U.S. branch" and that payment it receives for others are not effectively connected with the conduct of a trade or business in the United States, in each case certifying that the Administrative Agent is assuming primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the accounts of others, with the effect that the Borrower can make payments to the Administrative Agent without deduction or withholding of any Taxes imposed by the United States. At any time thereafter, the Administrative Agent shall update documentation previously provided (including, if applicable, any successor forms thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower. The Administrative Agent shall also promptly notify the Borrower in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section 5.4, the Administrative Agent or such Lender (as applicable) shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Parties under this Section 5.4 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower pursuant to this paragraph (f) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be,

shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the Administrative Agent or any Lender in a less favorable net after-Tax position than the Administrative Agent or any Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Credit Party or any other Person.

(g) If the Administrative Agent is a U.S. Person, it shall provide the Borrower with two duly completed original copies of Internal Revenue Service Form W-9. If the Administrative Agent is not a U.S. Person, it shall provide applicable Internal Revenue Service Form W-8 (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Lenders.

(h) [Reserved].

(i) Each party's obligations under this Section 5.4 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under the Credit Documents.

5.5 Computations of Interest and Fees.

(a) Except as provided in the next succeeding sentence, interest on Eurocurrency Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.

(c) For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 360-day or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or such other period of time, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment

to the maximum extent permitted by or consistent with applicable laws, rules, and regulations (the "**Maximum Rate**").

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8; provided that to the extent lawful, the interest or other amounts that would have been payable but were not payable as a result of the operation of this Section shall be cumulated and the interest payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.

Without limiting the generality of the foregoing, if any provision of this Agreement would oblige any Credit Party that is organized under the laws of Canada or any Province thereof to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by that Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

(i) first, by reducing the amount or rate of interest; and

(ii) thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

5.7 Super Priority Nature of Obligations and Collateral Agent's Liens; Payment of Obligations.

(a) The priority of the Collateral Agent's Liens on the Collateral, claims and other interests shall be as set forth in the DIP Order and the Canadian DIP Recognition Order (and, for the avoidance of doubt, are subject to the Carve Out).

(b) Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Credit Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without application to or order of the Bankruptcy Court or the Canadian Bankruptcy Court.

Section 6. Conditions Precedent.

6.1 Conditions Precedent to the Closing Date. The effectiveness of this Agreement and the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion and, with respect to any condition affecting the rights and duties of the Administrative Agent, the Administrative Agent, any which waiver by the Required Lenders, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Credit Documents. This Agreement and the other Credit Documents shall be satisfactory to the Required Lenders and delivered to the Administrative Agent and the Specified Lender Advisors and there shall have been delivered to the Administrative Agent and the Specified Lender Advisors a duly executed counterpart of this Agreement and each of the other Credit Documents by the applicable parties thereto (which may include telecopy transmission of a signed signature page).

(b) Orders. (i) The Bankruptcy Court shall have entered the Interim Order, no later than three (3) Business Days after the Petition Date, and such order shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent); (ii) the Administrative Agent and the Lenders shall have received drafts of the "first day" pleadings for the Chapter 11 Cases and all materials for the Canadian Recognition Proceeding, in each case, in form and substance satisfactory to the Administrative Agent and the Required Lenders, not later than a reasonable time in advance of the Petition Date for the Administrative Agent and the Required Lenders' counsel to review and analyze the same; (iii) all motions, orders (including the "first day" orders) and other documents to be filed with or submitted to the Bankruptcy Court on the Petition Date or the Canadian Bankruptcy Court on the CCAA Filing Date shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and (iv) (a) all "first day" orders shall have been approved and entered by the Bankruptcy Court except as otherwise agreed by the Required Lenders.

(c) Initial Approved Budget; Cash Flow Forecast. The Administrative Agent and the Specified Lender Advisors shall have received (i) the Initial Approved Budget and (ii) the initial Cash Flow Forecast, each in form and substance acceptable to the Lenders.

(d) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Closing Certificate. The Administrative Agent shall have received a certificate dated as of the Closing Date and signed by a Financial Officer of the Borrower confirming compliance with Sections 6.1(d), 6.1(h) and 6.1(k), in form and substance satisfactory to the Administrative Agent and the Required Lenders.

(f) Authorization of Proceedings of the Parent, the Borrower and the Guarantors; Corporate Documents. The Administrative Agent shall have received a certificate of each Credit Party dated as of the Closing Date, which shall contain appropriate attachments, including (i) a copy of the resolutions, minutes or written consents of the board of directors, the sole director or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery, and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrower,

the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement, Articles of Association or other comparable organizational documents, as applicable, of each Credit Party as in effect on the Closing Date, (iii) signature, specimen signatures and/or incumbency certificates (or other comparable documents evidencing the same) of the Authorized Officers of each Credit Party executing any Credit Document to which it is a party and (iv) good standing certificates (to the extent applicable) in the respective jurisdictions of organization of each Credit Party.

(g) Fees. All Fees due and payable on or before the Closing Date, including, to the extent invoiced not less than one Business Day prior to the Closing Date, reimbursement or payment of the reasonable and documented expenses (including the premiums and recording taxes and fees and the reasonable and documented fees and expenses of the Specified Lender Advisors, as counsel to the Ad Hoc Group of Lenders, the Lender Advisors, the Agent Advisors and counsel to the Escrow Agent, and the fees and expenses of any local counsel of the Lenders, shall be paid (or will be paid from the proceeds of the Loans)), in each case, to the extent required to be reimbursed or paid by the Credit Parties hereunder or under any other Credit Document.

(h) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of the Closing Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(i) Other Filings. Each of the Chapter 11 Plan, the Chapter 11 Plan Disclosure Statement, and Solicitation Motion (as defined in the RSA) shall have been or be concurrently filed with the Bankruptcy Court.

(j) Patriot Act. The Administrative Agent (or its counsel) shall have received at least three Business Days prior to the Closing Date such documentation and information as is reasonably requested in writing at least ten Business Days prior to the Closing Date by the Administrative Agent about the Credit Parties under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

(k) Assignment. Evidence that Wilmington Savings Fund Society, FSB has been assigned as administrative agent and collateral agent under each Pre-Petition Credit Agreement and the other Pre-Petition Credit Documents, such evidence in form and substance satisfactory to the Lenders and the Administrative Agent.

(l) No Default. On the Closing Date and immediately after giving effect to any Loans made on the Closing Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

For purposes of determining compliance with the conditions specified in this Section 6.1 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

6.2 Conditions Precedent to the Funding Date. In addition to the conditions set forth in Section 6.1, the obligations of each Lender to make any Loan hereunder on the Funding Date is subject to the satisfaction or waiver (by the Required Lenders in their sole discretion, any which waiver, and the satisfaction of the Required Lenders with any document described in Section 6 may be communicated via an email from any of the Specified Lender Advisors), of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the Funding Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(b) Notice of Borrowing. The Administrative Agent (or its counsel) shall have received a Notice of Borrowing with respect to the Term Loans meeting the requirements of Section 2.3(a).

(c) Compliance with RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA, except as otherwise waived in accordance with the terms thereof.

(d) No Default. On the Funding Date and immediately after giving effect to any Loans made on the Funding Date and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(e) Flow of Funds Statement. The Administrative Agent shall have received a Flow of Funds Statement, in form and substance satisfactory to the Administrative Agent and the Required Lenders.

Section 7. Conditions Precedent to Withdrawal.

7.1 Conditions Precedent to Withdrawal. Any Withdrawal on or after the Funding Date is subject to the satisfaction or waiver of the following additional conditions precedent:

(a) No Default. At the time of and immediately after giving effect to such Withdrawal and the application of the proceeds thereof, no Default or Event of Default shall have occurred and be continuing on such date.

(b) Representations and Warranties. Each of the representations and warranties set forth in Section 8 hereof or in any other Credit Document shall be true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date of such Withdrawal with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date in which case such representations and warranties shall be true and correct in all material respects as of such earlier date (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects as of such earlier date).

(c) Bankruptcy Proceedings. (i) The DIP Order, the Canadian Interim Orders and the Canadian Final Order (to the extent required to be in effect on the date of such Withdrawal) shall not have been vacated, stayed, reversed, modified, or amended, in whole or in any part, without the Administrative Agent's and the Required Lenders' written consent and shall otherwise be in full force and effect; (ii) no

motion for reconsideration of the Final Order and/or the Canadian Final Order shall have been timely filed by a Debtor or any of their Subsidiaries; and (iii) no appeal of the Final Order and/or the Canadian Final Order shall have been timely filed.

(d) RSA. The RSA shall be in full force and effect and no default by any of the Credit Parties shall have occurred and be continuing (with all applicable grace periods having expired) under the RSA.

(e) Fee. All fees and expenses required to be paid under the Credit Documents shall have been paid (or will be paid from the proceeds of the Loans).

(f) Approved Budget. The proceeds of the Loans shall be used as set forth in the Approved Budget (subject to the Permitted Variance).

(g) Withdrawal Notice. The Borrower has delivered to the Administrative Agent (for distribution to the Lenders and the Specified Lender Advisors) an executed Withdrawal Notice, executed by the Borrower requesting the proposed Withdrawal thereunder by no later than 1:00 p.m. (New York City time) on the Wednesday of the week (provided that in connection with the Funding Date, such Withdrawal notice may be provided at least one Business Day prior to the Funding Date) for a proposed funding of such Withdrawal on Friday of such week, which Withdrawal Notice (other than the Withdrawal Notice delivered on the Funding Date) will set forth the Actual Liquidity as of the Friday prior to the date of such Withdrawal Notice.

(h) Maximum Withdrawal. The amount of such Withdrawal does not exceed the Maximum Withdrawal Amount.

(i) Orders. Other than in connection with the Withdrawal on the Funding Date, the Canadian Bankruptcy Court shall have entered the Canadian Interim Orders, and such orders shall be in form and substance satisfactory to the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent) in their sole discretion, be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent).

Notwithstanding the foregoing, if the Required Lenders determine that the Borrower has failed to satisfy the conditions precedent set forth in this Section 7 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through the Specified Lender Advisors), the Administrative Agent (at the Direction of the Required Lenders) shall communicate the same to the Escrow Agent.

On any date on which the Loans shall have been accelerated, any amounts remaining in the Loan Proceeds Account, as the case may be, may be applied by the Administrative Agent to reduce the Loans then outstanding, in accordance with Section 5.3(d). None of the Credit Parties shall have (and each Credit Party hereby affirmatively waives) any right to withdraw, claim or assert any property interest in any funds on deposit in the Loan Proceeds Account upon the occurrence and continuance of any Default or Event of Default (except to fund the Carve Out).

The acceptance by the Borrower of the Loans or proceeds of a Withdrawal shall conclusively be deemed to constitute a representation by the Borrower that each of the conditions precedent set forth in Section 7 shall have been satisfied in accordance with its respective terms or has been irrevocably and expressly waived by the applicable Person; provided, however, that the making of any such Loan or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Administrative Agent, any Lender or other Secured Party of the

provisions of this Section 7 on such occasion or on any future occasion or operate as a waiver of (i) the right of Administrative Agent and Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent, the Escrow Agent or any Lender as a result of any such failure of the Credit Parties to comply with such conditions precedent.

Section 8. Representations and Warranties

In order to induce the Lenders to enter into this Agreement and to make the Loans provided for herein, the Parent and the Borrower make the following representations and warranties to each Agent, the Escrow Agent and the Lenders on the date of each Credit Event (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

8.1 Corporate Status. Each Credit Party (a) is a duly organized and validly existing corporation, limited liability company or other entity in good standing (if applicable) under the laws of the jurisdiction of its organization and subject to entry of the Interim Order or the Final Order, as applicable, and subject to any restrictions arising on account of any Credit Party's status as a "debtor" under the Bankruptcy Code, has the corporate, limited liability company or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified or authorized, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

8.2 Corporate Power and Authority. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Document constitutes the legal, valid, and binding obligation of each Credit Party enforceable in accordance with its terms, subject to the Legal Reservations.

8.3 No Violation. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the other transactions contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default (that is not excused by the Bankruptcy Code) under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of its Subsidiaries (other than Liens created under the Credit Documents, the DIP Order, any restrictions arising on account of such Credit Party's status as a "debtor" under the Bankruptcy Code, or Permitted Liens) pursuant to, the terms of any indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other instrument to which such Credit Party or any of its Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than, in the case of clause (b), to the extent any such breach, default or Lien would not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws, articles or other organizational documents of such Credit Party or any of its Subsidiaries.

8.4 Litigation. Except for the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no actions, suits or proceedings pending or, to the knowledge of any Credit Party, threatened in writing against any Credit Party or any of its Subsidiaries (a) that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (b) that involves this Agreement or the Transactions.

8.5 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6 Governmental Approvals. Subject to the entry of the Interim Order or the Final Order, as applicable, and the terms thereof, the execution, delivery and performance of each Credit Document does not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings, consents, approvals, registrations and recordings in respect of the Liens created pursuant to the Security Documents (and to release existing Liens), and (iii) such licenses, approvals, authorizations, registrations, filings or consents the failure of which to obtain or make would not reasonably be expected to result in a Material Adverse Effect.

8.7 Investment Company Act. No Credit Party nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

8.8 True and Complete Disclosure.

(a) None of the written information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of the Credit Parties any of their Subsidiaries or any of their respective authorized representatives to the Administrative Agent and/or any Lender on or before the Closing Date (including all such written information and data contained in the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein, contain any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time in light of the circumstances under which such information or data was furnished (after giving effect to all supplements and updates), it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections, estimates (including financial estimates, forecasts, and other forward-looking information) or other forward-looking information and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts, and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

8.9 Financial Condition; Financial Statements.

(a) The Parent has heretofore furnished to the Lenders its audited consolidated balance sheet and statement of income, stockholders equity and cash flows as of and for the fiscal years ended January 31, 2019 and January 31, 2018. Such financial statements present fairly in all material respects the combined financial position of the Parent and its Subsidiaries at the respective dates of said information, statements and results of operations for the respective periods covered thereby. The financial statements

referred to in clause (a) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements.

(b) Since January 31, 2019, there has been no event, change or condition that has had or could reasonably be excepted to have a Material Adverse Effect.

(c) Except as set forth in the financial statements referred to in Section 8.9(a), the Chapter 11 Cases and the Canadian Recognition Proceeding, there are no liabilities of any Credit Party of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise, which would reasonably be expected to result in a Material Adverse Effect.

8.10 Compliance with Laws; No Default. Subject to the entry of the Interim Order or the Final Order, as applicable, each Credit Party and each of its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

8.11 Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or is excused by the Bankruptcy Court or as a result of the filing of the Chapter 11 Cases, (a) each Credit Party and each of its Subsidiaries has filed all Tax returns required to be filed by it (including in its capacity as withholding agent) and has timely paid all Taxes payable by it that have become due, and (b) there is no current or proposed Tax assessment, deficiency or other claim against any Credit Party or any of its Subsidiaries, other than, in each of clauses (a) and (b), those being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the nonpayment of which is permitted or required under the Bankruptcy Code.

8.12 Compliance with ERISA and Foreign Plans.

(a) Except as would not reasonably be expected to have a Material Adverse Effect, no ERISA Event has occurred or is reasonably expected to occur.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

(c) Except as would not reasonably be expected to have a Material Adverse Effect:

(i) All Canadian Pension Plans are duly registered under the *Income Tax Act* (Canada), applicable pension standards legislation and any other applicable laws which require registration, and no event has occurred which could reasonably be expected to cause the loss of such registered status. Schedule 8.12 describes each Canadian Benefit Plan and lists the name and registration number of each Canadian Pension Plan. The Canadian Pension Plans and the Canadian Benefit Plans have each been administered, funded and invested in accordance with the terms of particular plan, all applicable laws including, where applicable, the *Income Tax Act* (Canada) and pension standards legislation, and the terms of all applicable collective bargaining agreements and employment contracts.

(ii) All material obligations of each Credit Party (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans, the Canadian Benefit Plans and the funding agreements therefor have been performed on a timely basis. There are no outstanding disputes concerning the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No promises of material benefit improvements under the Canadian Pension Plans or the Canadian Benefit Plans have been made.

All employee and employer payments, contributions or premiums required to be withheld, made, remitted or paid to or in respect of each Canadian Pension Plan or Canadian Benefit Plan and all other amounts that are due to the pension fund of any Canadian Pension Plan from any Credit Party have been withheld, made, remitted or paid on a timely basis in accordance with the terms of such plans, any applicable collective bargaining agreement or employment contract and all applicable laws.

(iii) Any assessments owed to the Pension Fund established under the *Pension Benefits Act* (New Brunswick) or other assessments or payments required under similar legislation in any other jurisdiction, in respect of any Canadian Pension Plan have been paid when due. There has been no improper withdrawal or application of the assets of the Canadian Pension Plans or the Canadian Benefit Plans. No event has occurred which could reasonably be expected to give rise to a partial or full termination of any Canadian Pension Plan. No event has occurred or is reasonably expected to occur that could trigger or otherwise require immediate or accelerated funding in respect of any Canadian Benefit Plan.

8.13 Subsidiaries. Schedule 8.13 sets forth (a) a correct and complete list of the name and relationship to the Parent of each Subsidiary, (b) a true and complete listing of each class of the Borrower's authorized Equity Interests, all of which issued shares are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 8.13, and (c) the type of entity of the Parent and each Subsidiary. Except as set forth on Schedule 8.13 (or, as supplemented with the consent of the Required Lenders on or prior to the Final Hearing Date, as confirmed by any Specified Lender Advisors (which approval may be communicated via an email from any of the Specified Lender Advisors)), there are no outstanding commitments or other obligations of any Credit Party to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Credit Party.

8.14 Intellectual Property. Other than as a result of the Chapter 11 Cases and subject to any necessary orders or authorization of the Bankruptcy Court, each Credit Party and its Subsidiaries owns or is licensed to use all Intellectual Property that is material to and used in or otherwise necessary for the operation of their respective businesses as currently conducted. The operation of their respective businesses by each of the Credit Parties and its Subsidiaries does not infringe upon, misappropriate, violate or otherwise conflict with the Intellectual Property of any third party, except as would not be material to the businesses of each Credit Party and its Subsidiaries.

8.15 Environmental Laws.

(a) Except as set forth on Schedule 8.15, or as would not reasonably be expected to have a Material Adverse Effect: (i) each of the Credit Parties and its Subsidiaries and their respective operations and properties are in compliance with all applicable Environmental Laws; (ii) none of the Credit Parties or any Subsidiary has received written notice of any Environmental Claim; (iii) none of the Credit Parties or any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) no underground or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by the Credit Parties or any Subsidiary.

(b) Except as set forth on Schedule 8.15, No Credit Party or any of its Subsidiaries has treated, stored, transported, Released or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of any Credit Party, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that would reasonably be expected to have a Material Adverse Effect.

8.16 Properties. Other than as a result of the Chapter 11 Cases and subject to any necessary authorization of the Bankruptcy Court:

(a) Each of the Credit Parties and its Subsidiaries has good and valid record title to, valid leasehold interests in, or rights to use, all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title or interest would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such act has been obtained in accordance with Section 9.3(b).

(b) Set forth on Schedule 8.16(b) is a list of each real property owned by any Credit Party as of the Closing Date having a Fair Market Value in excess of $1,000,000.

(c) Set forth on Schedule 8.16(c) is a list of each real property leased by any Credit Party as of the Closing Date where Collateral with an aggregate value in excess of $1,000,000 is located.

8.17 No EEA Financial Institution. No Credit Party is an EEA Financial Institution.

8.18 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of The Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the "**European Union Regulation**"), its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) is situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

8.19 [Reserved].

8.20 OFAC; USA PATRIOT Act; FCPA.

(a) On the Funding Date and each Withdrawal Date, the use of proceeds of the Loans will not violate the PATRIOT Act, OFAC Regulations, and other Anti-Terrorism Laws.

(b) To the extent applicable, each Credit Party and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto ("**OFAC Regulations**"), (ii) the USA PATRIOT Act, (iii) the FCPA and (iv) AML Legislation, the *Corruption of Foreign Public Officials Act* (Canada) and any other similar applicable law.

(c) No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**").

(d) No Credit Party (i) is currently the subject of any Sanctions or (ii) is located, organized or residing in any Designated Jurisdiction. No Loan, nor the proceeds from any Loan, has been used by any Credit Party, directly, to lend, contribute, provide or has otherwise made available to fund any activity or

business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including any Lender and the Administrative Agent) of Sanctions.

8.21 Security Interest in Collateral. Upon execution and delivery thereof by the parties thereto and upon the entry by the Bankruptcy Court of the Interim Order or the Final Order, as applicable, and subject to the provisions of this Agreement and the Security Documents, the Security Documents are effective to create (to the extent described therein) in favor of the Collateral Agent, for the benefit of itself and the other Secured Parties, a legal, valid and enforceable security interest in or liens on the Collateral described therein and the proceeds thereof, except as to enforcement, as the same may be limited by Bail-In Action, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing. Upon the entry by the Bankruptcy Court of the Interim Order or Final Order, as applicable, and in accordance therewith, the security interests and liens granted pursuant to the Interim Order, the Final Order and the Security Documents shall automatically, and without further action (other than, where necessary, any Foreign Law Security Filings), constitute a perfected security interest in (to the extent intended to be created thereby and required to be perfected under the Credit Documents) all right, title and interest of each pledgor or mortgagor (as applicable) party thereto in the Collateral described therein with respect to such pledgor or mortgagor (as applicable). Notwithstanding any other provision of this Agreement, capitalized terms that are used in this Section 8.21 and not defined in this Agreement are so used as defined in the applicable Security Document.

8.22 Use of Proceeds. Subject to the terms and conditions herein, the use of cash collateral and the proceeds of the Loans made hereunder shall be used by the Borrower, solely on or after the Closing Date, in accordance with the DIP Order and the Approved Budget (subject to Permitted Variances): (i) to pay related transaction costs, fees and expenses (including attorney's fees required to be paid hereunder and to fund the Carve Out) with respect to the DIP Facility, (ii) to make the adequate protection payments (if any) in accordance with the Approved Budget and the DIP Order, (iii) to fund the operation of certain non-Debtor Subsidiaries through "on-lending" or contributions of capital; provided that the proceeds of the Loans used to fund non-Debtor Subsidiaries under this Section 8.22(iii) shall not exceed the Maximum Non-Debtor Investment Cap, and (iv) to provide working capital, and for other general corporate purposes of the Credit Parties and their Subsidiaries, and to pay administration costs of the Chapter 11 Cases and the Canadian Recognition Proceeding and claims or amounts approved by the Court. The Credit Parties shall not be permitted to use the proceeds of the Loans or any cash collateral in contravention of the provisions of the Credit Documents, the DIP Order or the applicable Debtor Relief Laws, including any restrictions or limitations on the use of proceeds contained therein; provided that, no proceeds of the Loans will be used in connection with (including without limitation, to fund or prefund) any executive retention plan without the express written consent of the Required Lenders (which consent may be communicated via an email from any Specified Lender Advisor).

8.23 Insurance. The Credit Parties are in compliance with Section 9.3.

8.24 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date and the Canadian Recognition Proceedings were commenced thereafter, in accordance with applicable law and proper notice thereof was given for (x) the motion seeking approval of the Interim Order and the application seeking approval of the Canadian Interim Orders (y) the hearing for the entry of the Interim Order and the Canadian Interim Orders and (z) the hearing for the entry of the Final Order and the Canadian Final Order. The Debtors shall give, on a timely basis as specified in the Interim Order or Final Order, as applicable, all notices required to be given to all parties specified in the Interim Order or Final Order, as applicable.

(b) After entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against each Credit Party now existing or hereafter arising of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726, 1113, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under Section 364(c)(1) of the Bankruptcy Code, subject only to the Carve Out and the priorities set forth in the Interim Order or the Final Order, as applicable. After entry of the Canadian Supplemental Order, and pursuant to and to the extent permitted in the Canadian Supplemental Order and the Canadian Final Order, the Obligations of the Debtors in Canada hereunder will be secured by the CCAA DIP Lender's Charge having priority over all claims or any nature or kind against the Debtors in Canada, subject only to the CCAA Administration Charge.

(c) The Interim Order (with respect to the period prior to the entry of the Final Order) or the Final Order (with respect to the period on and after the entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors). The Canadian Supplemental Order (with respect to the period prior to the entry of the Canadian Final Order) or the Canadian Final Order (with respect to the period on and after the entry of the Canadian Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without Administrative Agent and Required Lender consent (which consent of the Required Lenders may be communicated via an email from either of the Specified Lender Advisors).

(d) Notwithstanding the provisions of Section 362 of the Bankruptcy Code and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of such Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Bankruptcy Court. Subject to the Canadian Supplemental Order or the Canadian Final Order, as the case may be, upon the Maturity Date (whether by acceleration or otherwise), the Agents, the Escrow Agent and Lenders shall be entitled to immediate payment of the Obligations in cash and to enforce the remedies provided for hereunder or under applicable law, without further notice, motion or application to, hearing before, or order by the Canadian Bankruptcy Court.

Section 9. Affirmative Covenants.

The Borrower hereby covenants and agrees that on the Closing Date and thereafter, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

9.1 Information Covenants. The Borrower will furnish to the Administrative Agent and the Specified Lender Advisors:

(a) [Reserved].

(b) Quarterly Financial Statements; Monthly Financial Statements.

(i) Quarterly Financial Statements. Commencing with the fiscal quarter ending April

30, 2020, as soon as available and in any event within five days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Parent (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days (or with respect to the fiscal quarter ending April 30, 2020, 60 days) after the end of each such quarterly accounting period), the consolidated balance sheets of the Parent and the Subsidiaries as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for the elapsed portion of the fiscal year ended with the last day of the applicable quarterly period, and setting forth comparative consolidated and/or combined figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the related period in the prior fiscal year, all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with GAAP (except as noted therein), subject to changes resulting from normal year-end adjustments and the absence of footnotes.

(ii) Monthly Financial Statements. Commencing with the month ending May 31, 2020, as soon as available but in any event not later than the thirtieth (30th) day (or with respect to the month ending May 31, 2020, forty-fifth (45th) day) after the end of month, the unaudited financial summary of the financial performance, the unaudited consolidated balance sheet and the unaudited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows of the Parent and the Subsidiaries as of the end of and for such month and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year.

(c) Officer's Certificates. Concurrently with the delivery of the financial statements provided for in Sections 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth a specification of any change in the identity of the Subsidiaries as at the end of such fiscal period, as the case may be, from the Subsidiaries provided to the Lenders on the Closing Date or the most recent fiscal period, as the case may be.

(d) Notice of Material Events. Promptly (and in any event, unless otherwise set forth herein, within four Business Days thereof) after an Authorized Officer of any Credit Party or any of its Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental proceeding pending against any Credit Party or any of its Subsidiaries that would reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect and (iii) to the extent reasonably practicable, (i) at least three Business Days (provided that if delivery of such documents, motions, orders, or applications at least three Business Days in advance is not reasonably practicable prior to filing, such period for delivery may be shortened upon the consent of the Required Lenders (which consent may be communicated via email by any Specified Lender Advisor)) prior to the date when the Borrower intends to file the RSA, any documents implementing and achieving the Transactions (as defined in the RSA) and the transactions contemplated by the Credit Documents, as applicable, including any substantive "first day" or "second day" motions, the Chapter 11 Plan and any supplement thereto, the Chapter 11 Plan Disclosure Statement, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan, any proposed order of the Bankruptcy Court approving the Chapter 11 Plan Disclosure Statement and the related solicitation

materials, any proposed Interim Order and Final Order, any proposed Canadian Interim Orders, Canadian Final Order or Canadian Confirmation Order, in each case, with the Bankruptcy Court or the Canadian Bankruptcy Court, as applicable, and (ii) at least one (1) calendar day (or such shorter review period as necessary or appropriate) prior to the date when the Borrower intends to file any other material pleading with the Bankruptcy Court or the Canadian Bankruptcy Court (but excluding retention applications, fee applications, and any declarations in support thereof or related thereto);

(e) Notice of Environmental Matters. Promptly (and in any event within four Business Days thereof) after an Authorized Officer of any Credit Party or any Subsidiary thereof obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not reasonably be expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate; and

(ii) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, Release or threatened Release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation or removal, remedial or other corrective action in response thereto. The term "**Real Estate**" shall mean land, buildings, facilities and improvements owned or leased by any Credit Party or any of its Subsidiaries.

(f) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by any Credit Party (or any Parent Entity) or any of its Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices, and reports that the Credit Parties or any of its Subsidiaries shall send to the holders of any publicly issued debt of the Parent and/or any of its Subsidiaries, in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent, the Specified Lender Advisors, the Crossholder Lender Advisors or any Lender may reasonably request; provided that none of the Parent nor any of its Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective contractors) is prohibited by law, or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Credit Parties and their Subsidiaries by furnishing the applicable financial statements of the Parent or any direct or indirect parent of the Parent, as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, to the extent such information relates to a parent of Parent, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Parent and its Subsidiaries on a standalone basis, on the other hand.

Documents required to be delivered pursuant to clauses (a) and (b) of this Section 9.1 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the earliest date on which (i) the Borrower

posts such documents, or provides a link thereto on the Parent's or a Parent Entity's website on the Internet; (ii) such documents are posted on behalf of the Credit Parties on IntraLinks/IntraAgency or another website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent), or (iii) such financial statements and/or other documents are posted on the SEC's website on the internet at www.sec.gov; provided that (A) the Borrower shall, at the request of the Administrative Agent, continue to deliver copies (which delivery may be by electronic transmission) of such documents to the Administrative Agent and (B) the Borrower shall in any event notify (which notification may be by facsimile or electronic transmission) the Administrative Agent of the posting of any such documents on any website described in this paragraph. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents and maintaining its copies of such documents. The Required Lenders may waive any delivery requirement set forth in this Section 9.1 (which waiver may be communicated via email by any Specified Lender Advisor).

Each Credit Party hereby acknowledges and agrees that, unless the Borrower notifies the Administrative Agent in advance, all financial statements and certificates furnished pursuant to Sections 9.1(a), (b) and (d) above are hereby deemed to be suitable for distribution, and to be made available, to all Lenders.

9.2 Books, Records, and Inspections.

(a) The Parent will, and will cause each Subsidiary to, permit officers and designated representatives of the Administrative Agent, the Specified Lender Advisors or the Required Lenders to visit and inspect any of the properties or assets of the Parent and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Parent and any such Subsidiary and discuss the affairs, finances and accounts of the Parent and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, at any time during normal business hours and upon reasonable advance notice without limitation on frequency and to such extent as the Administrative Agent, the Specified Lender Advisors or the Required Lenders may desire. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Credit Parties' independent public accountants.

(b) The Parent will, and will cause each Subsidiary to maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Parent and any such Subsidiary, as the case may be.

9.3 Maintenance of Insurance. (a) The Parent will, and will cause each of its Subsidiary to, at all times maintain in full force and effect, with insurance companies that are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis and against at least such risks (and with such risk retentions) as is reasonable and prudent in light of the size and nature of its business and the availability of insurance on a cost-effective basis; and the Borrower will furnish to the Administrative Agent and the Specified Lender Advisors, promptly following written request from the Administrative Agent (acting at the Direction of the Required Lenders), information presented in reasonable detail as to the insurance so carried, (b) if (x) any improved portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in

effect or successor act thereto) and (y) the Collateral Agent shall have delivered a notice to the Borrower stating that such Mortgaged Property is located in such special flood hazard area with respect to which such flood insurance has been made available, then the applicable Credit Party shall (i) obtain flood insurance in such total amount and in such form as the Administrative Agent (acting at the Direction of the Required Lenders) or the Required Lenders may from time to time reasonably require, and otherwise comply with the Flood Insurance Laws, (ii) deliver to the Administrative Agent and the Specified Lender Advisors evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), including, without limitation, a copy of the flood insurance policy and a declaration page relating to the insurance policies required by this Section 9.3 which shall (1) identify the addresses of each property located in a special flood hazard area, (2) indicate the applicable flood zone designation, the flood insurance coverage and the deductible relating thereto, (3) provide that the insurer will give the Administrative Agent forty-five days written notice of cancellation or non-renewal and shall include evidence of annual renewals of such insurance and (4) be otherwise in form and substance satisfactory to the Administrative Agent (acting at the Direction of the Required Lenders) and (c) such insurance will (i) in the case of each casualty insurance policy, contain a lender loss payable endorsement that names the Collateral Agent, on behalf of the Secured Parties as the lender loss payee thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured) and (ii) in the case of each casualty insurance policy, contain an additional insured endorsement that names the Collateral Agent, on behalf of the Secured Parties as an additional insured thereunder (or, in respect of insurance policies in Ireland, naming the Collateral Agent as co-insured).

9.4 Payment of Taxes. The Parent or the Borrower will pay and discharge, and will cause each of its Subsidiaries to pay and discharge, all material Taxes imposed upon it (including in its capacity as a withholding agent) or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, would reasonably be expected to become a material Lien upon any properties of the Credit Parties or any of the Subsidiaries; provided that no Credit Party nor any of its Subsidiaries shall be required to pay any such Tax that is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or the failure to pay (i) is permitted or required under the Bankruptcy Code or (ii) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

9.5 Preservation of Existence; Consolidated Corporate Franchises. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each Credit Party to, take all actions necessary (a) to preserve and keep in full force and effect its existence, organizational rights and authority and (b) to maintain its rights, privileges (including its good standing (if applicable)), permits, Intellectual Property rights, licenses and franchises necessary in the normal conduct of its business, in each case (other than with respect to the presentation of the existence, organizational rights and authority of the Credit Parties), except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect; provided, however, that each Credit Party and its Subsidiaries may consummate any transaction permitted under Permitted Investments and Sections 10.2, 10.3, 10.4, or 10.5.

9.6 Compliance with Statutes, Regulations, Etc. The Parent will, and will cause each of its Subsidiary to, (a) comply with all applicable laws, rules, regulations, and orders applicable to it or its property, including, without limitation, applicable laws administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury and the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations promulgated thereunder, and all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with

and maintain, any and all licenses, approvals, notifications, registrations or permits required by Environmental Laws, and (c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal, and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives which are being timely contested in good faith by proper proceedings, except (i) in each case of (a), (b), and (c) of this Section 9.6, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect or (ii) compliance is excused by, or otherwise prohibited by, the provisions of the Bankruptcy Code or as a result of the Chapter 11 Cases.

9.7 Employee Benefit Matters. (a) The Borrower will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any of its Subsidiaries may request with respect to any Multiemployer Plan to which a Credit Party or any of its Subsidiaries is obligated to contribute; provided that if any Credit Party or any of its Subsidiaries have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent or the Required Lenders (which request may be communicated via email by any Specified Lender Advisor), such Credit Party shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) promptly after receipt thereof.

9.8 Maintenance of Properties. Subject to any necessary Bankruptcy Court approval, the Parent will, and will cause each of its Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear, casualty, and condemnation excepted, except to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect.

9.9 Transactions with Affiliates. The Parent and the Borrower will conduct, and cause each of the Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Credit Parties) involving aggregate payments or consideration in excess of $1,000,000 for any individual transaction or series of related transactions on terms that are at least substantially as favorable to the Credit Party or such Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, as determined by the board of directors of the Borrower or such Subsidiary in good faith; provided that the foregoing restrictions shall not apply to (a) the transactions set forth in that certain cooperation agreement among the Debtors, certain of the Pre-Petition First Lien Lenders and the Pre-Petition Second Lien Lenders, the Sponsor (as defined herein) and each of the four (4) Luxembourg parent entities of Debtor Pointwell Limited, effective as of June 12, 2020, (b) transactions permitted by Section 10.5, (c) consummation of the Transactions and the payment of the Transaction Expenses, (d) the issuance of Capital Stock or Stock Equivalents of the Parent (or any direct or indirect parent thereof) or any of its Subsidiaries not otherwise prohibited by the Credit Documents, (e) [reserved], (f) employment and severance arrangements between the Credit Parties and the Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business and in effect on the Closing Date, (g) payments by the Parent (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among the Parent (and any such parent) and the Subsidiaries, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Parent (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Parent and the Subsidiaries, solely as to any costs and expenses in an aggregate amount not to exceed $500,000, (i) [reserved], (j) transactions pursuant to any agreement or arrangement as in effect as of the Closing Date, (k) [reserved], (l) [reserved], (m) Affiliate repurchases of the Loans or Commitments to the extent permitted hereunder and the holding of such Loans or Commitments and the payments and other transactions

contemplated herein in respect thereof and (n) any customary transactions with a Receivables Subsidiary effected as part of the Receivables Facility.

9.10 End of Fiscal Years. The Parent and each of its Subsidiaries will maintain its fiscal year as in effect on the Closing Date unless the Required Lenders consent to any change to such fiscal year (which consent may be communicated via an email from any of the Specified Lender Advisors).

9.11 Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Security Documents, the Parent will take action necessary to cause each direct or indirect Subsidiary (other than any Excluded Subsidiary or any Immaterial Subsidiary (unless requested by the Required Lenders)) formed or otherwise purchased or acquired after the Closing Date and each other Subsidiary that ceases to constitute an Excluded Subsidiary, within 30 days (or 45 days with respect to any Subsidiary not organized in the United States, Canada or Ireland) from the date of such formation, acquisition, cessation or request, as applicable (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to (a) be included in the grant of liens and claims in the DIP Order or take action necessary to cause such Person and/or (b) execute a supplement to each of the Guarantee, the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and execute any of the Irish Security Documents, as applicable, and the U.S. Security Agreement or a Foreign Security Agreement, as applicable, in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent requested by the Collateral Agent (acting at the Direction of the Required Lenders), enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to the Collateral Agent (acting at the Direction of the Required Lenders) and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date and pursuant to Section 9.14(d) in the case of such Credit Parties.

9.12 Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents, the Parent will cause (i) all certificates representing Capital Stock and Stock Equivalents of any Subsidiary held directly by any Credit Party representing Collateral, (ii) [reserved] and (iii) any promissory notes evidencing Indebtedness in excess of $1,000,000 of the Credit Parties or any Subsidiary (other than any Excluded Subsidiary) that is owing to the any Credit Party, in each case, to be delivered to the Collateral Agent as security for the Obligations accompanied by undated instruments of transfer executed in blank pursuant to the terms of the Security Documents.

9.13 Use of Proceeds. The Parent and the Borrower will, and will cause each Subsidiary to use the proceeds of the Loans only for the purposes set forth in Section 8.22.

9.14 Further Assurances.

(a) Subject to the terms of Sections 9.11 and 9.12, this Section 9.14 and the Security Documents, the Parent and the Borrower will, and will cause each Credit Party to, execute any and all further documents, financing statements, agreements, and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust, and other documents) that may be required under any applicable law, or that the Collateral Agent (acting at the Direction of the Required Lenders) or the Required Lenders may reasonably request, in order to grant, preserve, protect, and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrower; provided that, notwithstanding anything to the contrary contained herein or in any other Credit Document, the Required Lenders may request the Parent to take action necessary to cause each Immaterial Subsidiary in existence

on the Closing Date, within 45 days from the date of such request (or such longer period as the Required Lenders may agree in their reasonable discretion (such extension may be communicated via email by any Specified Lender Advisor)), to take all actions contemplated under Section 9.12 to become a Guarantor and to grant a perfected security interest in its assets to substantially the same extent as created and perfected by the Credit Parties on the Closing Date.

(b) Subject to any applicable limitations set forth in the Security Documents, if any assets (including any real estate or improvements thereto or any interest therein) are acquired by any Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute a fee interest in real property, the Borrower will notify the Collateral Agent, and, if requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), the Credit Parties will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or reasonably requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), including the granting of a Mortgage on such owned real estate, as soon as commercially reasonable but in no event later than 30 days thereafter (unless extended by the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) in their sole discretion), to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor), shall be delivered within such time period as requested by the Required Lenders and accompanied by, in each case to the extent requested by the Required Lenders (which request may be communicated by email from any Specified Lender Advisor) (w) to the extent available in the applicable jurisdiction, a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a title insurance company or similar insurer recognized in such jurisdiction, in such amounts as reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) not to exceed the Fair Market Value of the applicable Mortgaged Property, insuring the Lien of each Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Required Lenders and otherwise in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor) (the "**Title Policy**"), together with, such endorsements, coinsurance and reinsurance as the Required Lenders may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided that in no event shall the Administrative Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, (x) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any of the Specified Lender Advisor), (y) with respect to property located in the United States, a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if any improvements on such Mortgaged Property are located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) evidence the insurance required by Section 9.3 in form and substance reasonably satisfactory to the Required Lenders (which satisfaction may be communicated by email from any of the Specified Lender Advisor), and (z) an ALTA survey in a form and substance reasonably acceptable to the Required Lenders (which acceptance may be communicated by email from any Specified Lender Advisor) or such existing survey together with a no-change affidavit sufficient for the title company to issue the survey related endorsements and to remove all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (w) above.

(d) Post-Closing Covenant. The Parent agrees that it will, or will cause its Subsidiaries to complete each of the actions described on Schedule 9.14, in each case, as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14 with respect to such action or such later date as the Required Lenders (which extension may be communicated by email from any Specified Lender Advisor) may agree in their sole discretion.

9.15 Maintenance of Ratings. Prior to the early to occur of (i) thirty days after the Petition Date and (ii) the entry of the Final Order, the Borrower will use commercially reasonable efforts to obtain and maintain a private corporate family and/or corporate credit rating, as applicable, and ratings in respect of the credit facilities provided pursuant to this Agreement (but not maintain any specific rating), in each case, from each of S&P and Moody's or, with the consent of the Required Lenders in the event that Moody's and/or S&P are not willing to so rate the Loans, such other rating agency, as applicable, as is acceptable to the Required Lenders (which acceptance may be communicated via email from any of the Specified Lender Advisors).

9.16 Lines of Business. The Parent, the Borrower and their Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Credit Parties and their Subsidiaries, taken as a whole, on the Closing Date and other business activities which are reasonable extensions thereof.

9.17 Center of Main Interests. With respect to any Credit Party formed, incorporated or organized in the European Union, for the purposes of the European Union Regulation, its center of main interest (as that term is used in Article 3(1) of the European Union Regulation) shall be situated in its jurisdiction of incorporation, and it has no "establishment" (as that term is used in Article 2(h) of the European Union Regulation) in any other jurisdiction.

9.18 Approved Budget.

(a) The Approved Budget shall set forth, on a weekly basis, among other things, Budgeted Cash Receipts, Budgeted Operating Disbursement Amounts, Budgeted Liquidity, Budgeted Restructuring Related Amounts and Budgeted Borrower Professional Fees for the 13-week period commencing with the first full week after the Closing Date and shall be approved by and in form and substance satisfactory to the Required Lenders (which satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors); provided that it is acknowledged and agreed by the parties hereto that the Initial Approved Budget is approved by and satisfactory to the Required Lenders and is and shall be the Approved Budget unless and until replaced in accordance with terms of this Section, and that with respect to any subsequent Approved Budget, such approval and satisfaction of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors. The Approved Budget shall be updated, modified or supplemented by the Borrower from time to time in writing transmitted to the Administrative Agent and the Specified Lender Advisors with the written consent of and/or at the request of the Required Lenders (with a copy of such written consent or request concurrently delivered to the Administrative Agent) (which consent may be communicated via an email from any of the Specified Lender Advisors) (any such proposed budget, the "**Proposed Budget**"), but in any event not less than one time in each four (4) consecutive week period, commencing with the first full week after the Closing Date, and each Proposed Budget shall be substantially in the form of the Initial Approved Budget and otherwise satisfactory to the Required Lenders, and no such Proposed Budget shall be effective unless acceptable to the Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors); and upon delivery of such acceptance by the Required Lenders, such Proposed Budget shall be deemed the newly approved Approved Budget; provided, however, that in the event the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, such disagreement shall constitute an immediate Event of Default once the period

covered by the prior approved Approved Budget has terminated (and at all times thereafter such then current approved Approved Budget shall remain in effect unless and until a new Approved Budget is approved by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors)). Each Approved Budget shall be accompanied by such supporting documentation as reasonably requested by the Specified Lender Advisors and prepared in good faith based upon assumptions believed by the Borrower to be reasonable.

(b) For each Variance Testing Period, the Borrower shall not permit: (x) the Actual Cash Receipts to be less than Budgeted Cash Receipts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance for such Variance Testing Period and (y) Actual Operating Disbursement Amounts to exceed the Budgeted Operating Disbursement Amounts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than the Permitted Variance.

(c) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors (for distribution to the Lenders) on or before 5:00 p.m. (New York City time) on Thursday of every other week (commencing on July 16, 2020), a certificate which shall include such detail as is reasonably satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), signed by an Authorized Officer of the Borrower (i) certifying that the Credit Parties are in compliance with the covenants contained in Section 9.18(a) and (b), (ii) certifying that no Default or Event of Default has occurred or, if such a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (iii) identifying the cumulative amount of any Investments made pursuant to clause (vi) of the definition of "Permitted Investments" as of the date of such report and (iv) certifying to the amount of Actual Liquidity as of the Friday of the prior calendar week, and attaching the Approved Budget Variance Report which shall be prepared by the Borrower as of the last day of the respective Variance Testing Period, and shall be in a form and substance satisfactory to the Required Lenders in their sole discretion (which satisfaction may be communicated via an email from any of the Specified Lender Advisors).

(d) The Administrative Agent and the Lenders (i) may assume that the Credit Parties will comply with the Approved Budget (subject to Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Credit Parties remain obligated to pay any and all Obligations in accordance with the terms of the Credit Documents regardless of whether such amounts exceed such estimates. Nothing in any Approved Budget shall constitute an amendment or other modification of any Credit Document or other lending limits set forth therein.

9.19 Cash Flow Forecast.

(a) The Borrower shall deliver to the Administrative Agent and the Specified Lender Advisors on or before 5:00 p.m. (New York City time) on Thursday every fourth week (commencing on July 16, 2020) supplemental Cash Flow Forecasts, which shall set forth, on a weekly basis, among other things, receipts, operating disbursements, liquidity and restructuring related amounts for such period. The projections delivered pursuant to this Section 9.19 shall not constitute the "Approved Budget" for any purpose hereunder.

9.20 Monthly Calls and Status Update Calls

(a) At one point during the month upon the request of the Required Lenders, with reasonable

notice and an agenda provided to management prior thereto, the Borrower shall conduct monthly telephone conferences which at the election of the Required Lenders can include, the Specified Lender Advisors, the Crossholder Lender Advisors and all or a portion of the Lenders (and can be split into (i) a Public Siders and non-Public Siders portion and (ii) a solely non-Public Sider Lenders portion) and permit questions from such Lenders and answers; provided that (I) questions from the Lenders shall be provided to the Borrower in writing no later than two (2) Business Days in advance and (II) for the avoidance of doubt, the Borrower shall not be obligated to disclose any material non-public information during the Public-Siders and non-Public-Siders portion of such telephone conferences;

(b) At the request of the Specified Lender Advisors (in consultation with the Crossholder Lender Advisors), not more than twice a month from and after the Petition Date through the Maturity Date, the Borrower shall hold a meeting (at a mutually agreeable location and time or telephonically with reasonable notice to management prior thereto) with management of the Borrower, the Specified Lender Advisors and the Crossholder Lender Advisors, which meeting, at the discretion of the Specified Lender Advisors (and the Crossholder Lender Advisors, solely with respect to the Ad Hoc Group of Crossholder Lenders), may include private side Lenders, public side Lenders and/or non-Public Sider Lenders; provided that the Specified Lender Advisors shall (i) communicate the participants to the Borrower in advance of such call or meeting and (ii) provide an agenda in advance of such call or meeting (which exercise of discretion may be communicated via an email from any of the Specified Lender Advisors) regarding the financing results, operations, compliance of the Credit Parties and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding; provided, further, that any such meeting that occurs during the same week as the telephone conference outlined in Section 9.21(a) hereof may be combined with such telephone conference; and

(c) promptly upon any reasonable request of any Specified Lender Advisor hold a telephonic meeting with such Specified Lender Advisor regarding the financing results, operations, other business developments and developments in the Chapter 11 Cases or the Canadian Recognition Proceeding.

The Required Lenders may waive any requirements set forth in this Section 9.20 (which waiver may be communicated via e-mail by any Specified Lender Advisor).

9.21 Required Milestones. The Parent shall, or shall cause the following to occur, by the times and dates set forth below (as any such time and date may be extended, or any of such milestone set forth below may be modified, with the consent of the Required Lenders (which consent, and any consent of the Required Lenders described below may be communicated via an email from any of the Specified Lender Advisors)):

(a) By no later than one Business Day following the Petition Date, the Borrower shall file a Prepack Scheduling Motion seeking entry of the Prepack Scheduling Order, in form and substance reasonably acceptable to the Required Lenders.

(b) By no later than three Business Days following the Petition Date, the Bankruptcy Court shall enter (i) the Interim Order, and (ii) the Prepack Scheduling Order.

(c) By no later than four Business Days following the entry of the Interim Order and the Prepack Scheduling Order, Skillsoft Canada Ltd. shall have commenced the Canadian Recognition Proceeding.

(d) By no later than twenty-five calendar days following the Petition Date, the Bankruptcy Court shall enter the Final Order authorizing the DIP Facility, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(e) By no later than four Business Days following the entry of the Final Order, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Final Order.

(f) By no later than sixty calendar days following the Petition Date, the Bankruptcy Court shall enter an order confirming the Chapter 11 Plan, in form and substance reasonably acceptable to the Required Lenders and the Borrower.

(g) By no later than four Business Days following the entry of the order confirming the Chapter 11 Plan, Skillsoft Canada Ltd. shall have filed a motion for the issuance by the Canadian Bankruptcy Court of the Canadian Confirmation Order.

(h) By no later than eighty calendar days following the Petition Date, the effective date of the Chapter 11 Plan shall have occurred.

9.22 Specified Lender Advisors.

(a) The Administrative Agent, on behalf of itself and the Lenders, the Collateral Agent, on behalf of its and the Secured Parties, the Lenders, each of the Specified Lender Advisors, on behalf of itself and the Lenders represented thereby, and the Crossholder Lender Advisors, on behalf of itself and the Lenders represented thereby, shall each be entitled to retain or continue to retain (either directly or through counsel) any advisor any Agent and the Ad Hoc Group of Lenders may deem necessary to provide advice, analysis and reporting for the benefit of the Agents or the Lenders. The Credit Parties shall pay all fees and expenses of such advisors in accordance with this Agreement and any other Credit Document, any applicable fee or engagement letters, and all such fees and expenses shall constitute Obligations and be secured by the Collateral. The Credit Parties and their advisors shall grant access to, and cooperate in all respects with, the Agents, the Lenders, the Specified Lender Advisors, the Agent Advisors and the Crossholder Lender Advisors and any other representatives of the foregoing and provide all information that such parties may request in a timely manner.

(b) The Borrower shall continue to retain the Company Advisors as company advisors consistent with the terms of their respective engagement agreements as in effect on the Closing Date or as otherwise agreed by the Required Lenders (which agreement may be communicated via an email from any of the Specified Lender Advisors).

9.23 Additional Bankruptcy Matters. The Borrower shall promptly provide the Administrative Agent, the Lenders and the Specified Lender Advisors with updates of any material developments in connection with the Credit Parties' reorganization efforts under the Chapter 11 Cases or the Canadian Recognition Proceeding, whether in connection with the sale of all or substantially all of the Parent's and its Subsidiaries' consolidated assets, the marketing of any Credit Parties' assets, the formulation of bidding procedures, auction plan, and documents related thereto, or otherwise

9.24 Debtor-in-Possession Obligations. The Borrower shall comply in a timely manner with its obligations and responsibilities as debtor-in-possession under the Bankruptcy Code, the Bankruptcy Rules, the DIP Order, and any other order of the Bankruptcy Court or the Canadian Bankruptcy Court.

9.25 Deposit Accounts.

(a) Set forth on Schedule 9.25 is a list of each Bank Account of each Credit Party or its Subsidiaries as of the Closing Date. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree), the Borrower (or applicable Credit Party) shall enter

into a Control Agreement with each account bank, with respect to each Deposit Account (other than an Excluded Account) in which funds of any of the Credit Parties are deposited and a Control Agreement for any Securities Account (other than an Excluded Account) where securities are or may be maintained (including those existing as of the Closing Date). In addition, the Borrower (or applicable Credit Party) shall enter into a Control Agreement with respect to any such Deposit Account or Securities Account other than an Excluded Account which is established after the Closing Date, promptly and in any event within 30 days upon such establishment (or such longer period as the Required Lenders may agree in their discretion).

(b) The Borrower shall not permit more than $250,000 in the aggregate deposited in any account maintained for the deposit of funds with a Canadian bank accepting funds for deposit in Canada.

9.26 Foreign Pledge. On or prior to 30 days after the Closing Date (or such later time to which the Required Lenders may reasonably agree (which agreement may be communicated via an email from any of the Specified Lender Advisors)), the Borrower shall execute a supplement to each of the U.S. Pledge Agreement or a Foreign Pledge Agreement, as applicable, and take all other action requested by the Required Lenders (which may be communicated via email by any Specified Lender Advisor) to grant a perfected security interest in 100% of the equity of each Subsidiary directly owned by any Credit Party; unless the Borrower delivers a tax analysis by independent certified public accountants of recognized national standing (which may be Ernst & Young LLP) concluding that a security interest in such equity would reasonably be expected to result in a material tax consequence to the Credit Parties as determined by the Required Lenders (in consultation with the Borrower); provided that no pledge or supplement shall be required to the extent the Required Lenders determine that the cost of obtaining a security interest therein (including any tax effects relating thereto) exceeds the practical benefit to the Lenders affected thereby.

Section 10. Negative Covenants

The Parent and the Borrower hereby covenants and agrees with the Lenders that on the Closing Date and thereafter, jointly and severally with all other Credit Parties, until the Commitments have terminated in accordance with the terms of this Agreement and the Loans, together with interest, Fees, and all other Obligations incurred hereunder, are paid in full that, unless consented to by the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors):

10.1 Limitation on Indebtedness. The Parent and the Borrower will not, and will not permit any Subsidiary to create, incur, issue, assume, guarantee or otherwise become liable, contingently or otherwise (collectively, "**incur**" and collectively, an "**incurrence**"), with respect to any Indebtedness, and the no Credit Party will issue any shares of Disqualified Stock and will not permit any Subsidiary to issue any shares of Disqualified Stock.

The foregoing limitations will not apply to:

(a) Indebtedness arising under the Credit Documents;

(b) (x) Indebtedness under (i) the Pre-Petition First Lien Credit Agreement in an aggregate principal amount not to exceed $1,369,925,000, (ii) the Pre-Petition Second Lien Credit Agreement, in an aggregate principal amount not to exceed $670,000,000 and (iii) under the Receivables Facility, in an aggregate principal amount not to exceed $90,000,000.

(c) (i) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and (ii) intercompany Indebtedness outstanding on the Closing Date listed on Schedule 10.1;

(d) [reserved];

(e) Indebtedness incurred by any Credit Party, in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement or indemnification type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance;

(f) Capitalized Lease Obligations (i) outstanding on the Closing Date and (ii) incurred after the Closing Date in an aggregate amount not to exceed $3,000,000;

(g) Indebtedness of any Credit Party in respect of letters of credit with an aggregate face amount not to exceed $2,000,000;

(h) Indebtedness of any Credit Party owing to another Credit Party or of any Subsidiary that is not a Credit Party to another Subsidiary that is not a Credit Party;

(i) Indebtedness of any Credit Party to the extent expressly permitted in the Approved Budget;

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) Indebtedness in connection with cash management and related banking services in the ordinary course;

(n) guarantees of leases of any Credit Party in the ordinary course of business and in effect on the Closing Date;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(p) other Indebtedness in an aggregate amount not to exceed $1,000,000; and

(q) (1) any guarantee by a Credit Party of Indebtedness or other obligations of any Subsidiary that is a Credit Party or (2) by any Subsidiary that is not a Credit Party of Indebtedness of any other Subsidiary that is not a Credit Party; provided that any guarantee of Indebtedness permitted under this Section 10.1(q) is subordinated in right of payment to the Obligations; provided, further, that to the extent such Subsidiary is party to the Intercompany Note such loans and advances are subordinated to the Obligations on terms acceptable to the Required Lenders;

10.2 Limitation on Liens. The Parent and the Borrower will not, and will not permit any of the Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any Credit Party or any Subsidiary, whether now owned or hereafter acquired (each, a "**Subject Lien**"), except if such Subject Lien is a Permitted Lien.

10.3 Limitation on Fundamental Changes. Except in connection with the Chapter 11 Plan, the Credit Parties will not, and will not permit any of the Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or

dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except that:

(a) The Credit Parties and any Subsidiary thereof may consummate transactions contemplated by the RSA;

(b) the Subsidiaries set forth on Schedule 10.3 may liquidate in the ordinary course; and

(c) so long as no Event of Default has occurred and is continuing or would result therefrom, (i) any Subsidiary of the Parent may be merged, amalgamated or consolidated with or into the Borrower in a transaction in which the Borrower is the surviving corporation and (ii) any Credit Party (other than the Parent or the Borrower) or any other Subsidiary may be merged into any other Credit Party in a transaction in which the surviving entity is a Credit Party.

10.4 Limitation on Sale of Assets. The Parent and the Borrower will not, and will not permit any of their Subsidiary to, consummate an Asset Sale, except that:

(a) any sale, transfer or disposition of (i) obsolete, worn out or surplus property or property (including leasehold property interests and Intellectual Property) that is no longer economically practical in its business or commercially desirable to maintain or no longer used or useful equipment (including any servers) in the ordinary course of business or (ii) Inventory in the ordinary course of business; provided that the Fair Market Value of all such sales, transfers and dispositions permitted by this clause (a)(i) from and after the Closing Date shall not exceed $100,000 in the aggregate at any one time outstanding;

(b) any disposition of property or assets or issuance of securities by (i) a Credit Party to a Credit Party and (ii) a Subsidiary that is not a Credit Party to a Credit Party or other Subsidiary of the Parent;

(c) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of the Credit Parties or any of its Subsidiaries;

(d) sales of accounts receivable, or participations therein, and related assets in connection with the Receivables Facility in accordance with the Approved Budget;

(e) other sales, transfers or dispositions pursuant to an order of the Bankruptcy Court which sale, transfer or disposition are consistent with the RSA and the Approved Budget;

(f) [reserved];

(g) [reserved];

(h) leases, assignments, subleases, licenses, or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Parent and the Subsidiaries, taken as a whole in an aggregate amount not to exceed $100,000 at any one time outstanding; and

(i) other Asset Sales in an aggregate amount not to exceed $250,000.

provided that for any Asset Sales permitted under Section 10.4(a) or (i), such Credit Party or such Subsidiary must receive consideration at the time of such Asset Sale at least equal to the Fair Market Value (determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed

of; and 100% of the consideration therefor received by such Credit Party or such Subsidiary, as the case may be, is in the form of cash or Cash Equivalents;

For the avoidance of doubt, no Credit Party will, nor will it permit any Subsidiary to, enter into any Sale Leaseback.

10.5 Limitation on Restricted Payments. The Parent and the Borrower will not, and will not permit any Subsidiary to:

(a) declare or pay any dividend or make any payment or distribution on account of any Credit Party's or any of its Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

(i) Restricted Payments to effectuate the transactions contemplated by the RSA, or

(ii) dividends or distributions by a Subsidiary so long as, a Credit Party is the recipient of such dividend or distribution or such dividend or distribution by a Subsidiary that is not a Credit Party, so long as a Subsidiary that is not a Credit Party or a Credit Party is a recipient.

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Parent or any direct or indirect parent company of the Parent, including in connection with any merger or consolidation;

(c) make any payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, the principal or interest of any Indebtedness incurred prior to the Petition Date (all such Indebtedness, including all loans under the Pre-Petition Credit Agreements and the Receivables Facility, the "**Pre-Petition Indebtedness**"), other than payment to certain creditors set forth in the Approved Budget and pursuant to an order of the Bankruptcy Court in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors); provided that notwithstanding the foregoing, the Credit Parties may make payments under the Receivables Facility in an amount not to exceed the cash collected in respect of receivables invested in the Receivables Subsidiary. Furthermore, no Credit Party will, nor will it permit any of its Subsidiaries, to amend the documents evidence any Pre-Petition Indebtedness other than as set forth in the RSA or the Chapter 11 Plan.

(d) of any Credit Party or any of its Subsidiary, repurchase or other acquisition of Pre-Petition Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(e) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (e) above (other than any exception thereto) being collectively referred to as "**Restricted Payments**").

10.6 Burdensome Agreements. The Parent and the Borrower will not, nor permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of such Credit Party or any of its Subsidiaries to:

(a) (i) pay dividends or make any other distributions to the Parent or any Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits or (ii) pay

any Indebtedness owed to the Parent or any Subsidiary;

(b) make loans or advances to the Parent or any Subsidiary; or

(c) sell, lease or transfer any of its properties or assets to the Parent or any Subsidiary; or

(d) create, incur, assume or suffer to exist any Lien on property of such Person for the benefit of the Lenders with respect to the Obligations under the Credit Documents, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions pursuant to this Agreement or in effect on the Closing Date and listed on Schedule 10.6;

(ii) the Pre-Petition Credit Documents;

(iii) purchase money obligations for property acquired in the ordinary course of business consistent with past practice and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (c) or clause (d) above on the property so acquired to the extent in existence on the Closing Date;

(iv) Requirement of Law or any applicable rule, regulation or order;

(v) [reserved];

(vi) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Parent pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary and restrictions on transfer of assets subject to Permitted Liens;

(vii) (x) secured Indebtedness otherwise permitted to be incurred pursuant to Sections 10.1 and 10.2 that limit the right of the debtor to dispose of the assets securing such Indebtedness and (y) restrictions on transfers of assets subject to Permitted Liens (but, with respect to any such Permitted Lien, only to the extent that such transfer restrictions apply solely to the assets that are the subject of such Permitted Lien);

(viii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business and in existence on the Closing Date;

(ix) other Indebtedness, Disqualified Stock or preferred stock of Subsidiaries permitted to be incurred subsequent to the Closing Date pursuant to the provisions of Section 10.1;

(x) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint venture and the Equity Interests issued thereby and in effect on the Closing Date;

(xi) customary provisions contained in leases, sub-leases, licenses, sub-licenses or similar agreements, in each case, entered into in the ordinary course of business and in effect on the Closing Date; and

(xii) restrictions created in connection with the Receivables Facility as it existence on the Closing Date; provided that, any further amendments to the Receivables Facility must be

approved by the Required Lenders (such approval not to be unreasonably withheld or delayed) (which approval may be communicated by email by any Specified Lender Advisor).

10.7 [Reserved].

10.8 [Reserved].

10.9 [Reserved].

10.10 Orders. Notwithstanding anything to the contrary herein, no Credit Party nor any Subsidiary shall use any portion or proceeds of the Loans or the Collateral, or disbursements set forth in the Approved Budget, for payments or for purposes that would violate the terms of the DIP Order.

10.11 [Reserved]

10.12 Insolvency Proceeding Claims. No Credit Party nor any Subsidiary shall incur, create, assume, suffer to exist or permit any other super priority administrative claim which is pari passu with or senior to the claim of any Agent, the Escrow Agent or the Lenders against the Debtors, except as set forth in the DIP Order and the Canadian DIP Recognition Order.

10.13 Bankruptcy Actions. No Credit Party nor any of its Subsidiaries shall seek, consent to, or permit to exist, without the prior written consent of the Required Lenders (which approval may be communicated via an email from any of the Specified Lender Advisors) (which consent shall constitute authorization under this Agreement), any order granting authority to take any action that is prohibited by the terms of this Agreement, the DIP Order or the other Credit Documents or refrain from taking any action that is required to be taken by the terms of the DIP Order or any of the other Credit Documents.

10.14 Minimum Actual Liquidity. Commencing after the initial Withdrawal from the Loan Proceeds Account on the Funding Date, the Borrower shall not permit, as of the Friday of each calendar week following the Closing Date, Actual Liquidity to be less than $10,000,000 (subject to Permitted Variances).

10.15 Canadian Pension Plans. No Credit Party in existence on the Closing Date, nor any Subsidiary created after the Closing Date (as permitted hereunder), shall, without the prior written consent of the Required Lenders (which consent may be communicated by any Specified Lender Advisor), commence to participate in a Canadian Defined Benefit Plan.

Section 11. Events of Default

11.1 Events of Default. Notwithstanding the provisions of Section 362 of the Bankruptcy Code to the extent provided in the DIP Order, without notice, application or motion, hearing before, or order of the Bankruptcy Court or the Canadian Bankruptcy Court or any notice to any Credit Party, upon the occurrence of any of the following specified events (each, an "**Event of Default**"):

(a) Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default in the payment when due (or within one day of such due date) of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

(b) Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which

made or deemed made; or

(c) Perfected Security Interest. Any Lien securing any Obligations shall cease to be a perfected, first priority Lien (subject to the Carve Out and other Liens specified in the DIP Order and the CCAA Administration Charge) with respect to any material portion of the Collateral; or

(d) ERISA and Other Employee Benefit Matters. Except to the extent excused by the Bankruptcy Court or as a result of the Chapter 11 Cases, (a) an ERISA Event or a Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States District Court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e), that, when taken together with all other such events or conditions, if any, would reasonably be expected to result in a liability to any Credit Party in excess of $500,000; or

(e) Covenants. Any Credit Party shall (i) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(d)(i), Section 9.5 (solely with respect to the Borrower), Section 9.13, 9.14(d), 9.18, 9.19, 9.20, 9.21, 9.23, 9.24, 9.25, 9.26 or Section 10 or (ii) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in clause (i) or otherwise set forth in this Section 11.1) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after delivery of written notice by the Administrative Agent or the Required Lenders; or

(f) [Reserved]; or

(g) [Reserved]; or

(h) Judgments. Solely with respect to pre-petition actions, one or more judgments or decrees shall be entered against any Credit Party or any of the Subsidiaries involving a liability in excess of $1,000,000 in the aggregate for all such judgments and decrees for the Parent and the Subsidiaries (to the extent not covered by insurance or indemnities as to which the applicable creditworthy insurance company has not denied coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 30 days after the entry thereof; or

(i) Change of Control. Other than pursuant to the Chapter 11 Plan, a Change of Control shall occur; or

(j) Bankruptcy Events. The occurrence of any of the following in any of the Chapter 11 Cases or the Canadian Recognition Proceeding:

(i) other than a motion in support of the DIP Order, the bringing of a motion, taking of any action or the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto by any of the Credit Parties in the Chapter 11 Cases: (A) to obtain additional financing under Section 364(c) or Section 364(d) of the Bankruptcy Code or under the CCAA not otherwise permitted pursuant to this Agreement; (B) to grant any Lien other than the Permitted Liens; (C) except as provided in the DIP Order, to use cash collateral of (1) the Administrative Agent and the other Secured Parties under Section 363(c) of the Bankruptcy Code without the prior written consent of the Required Lenders (which approval may be communicated via an email from

any of the Specified Lender Advisors) or (2) the Pre-Petition First Lien Lenders or the Pre-Petition First Lien Agent under Section 363(c) of the Bankruptcy Code without the prior written consents of the "Required Lenders" under the Pre-Petition First Lien Credit Agreement; or (D) to take any other action or actions adverse to the Administrative Agent and Lenders or their rights and remedies hereunder, under any other Credit Documents, or their interest in the Collateral;

(ii) (A) other than in accordance with the RSA, (1) the filing of any plan of reorganization, plan of liquidation or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by a Credit Party, in each case, that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans and to which the Required Lenders do not consent or (2) if any of the Credit Parties or their Subsidiaries shall seek, support or fail to contest in good faith the filing or confirmation of any such plan or entry of any such order that does not propose to Pay in Full the Obligations under this Agreement on or before the effective date of such plan or plans, (B) the entry of any order terminating any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation or disclosure statement attendant thereto (or such an order is sought by any party and is not actively contested by the Credit Parties), or (C) the expiration of any Credit Party's exclusive right to file a plan of reorganization or plan of liquidation;

(iii) the entry of an order in any of the Chapter 11 Cases confirming a plan of reorganization or plan of liquidation that is not in accordance with the RSA or otherwise acceptable to the "Requisite Consenting Creditors" as defined in the RSA in their sole discretion (which acceptance may be communicated via an email from any of the Specified Lender Advisors);

(iv) (x) the entry of an order amending, supplementing, staying, vacating or otherwise modifying the Credit Documents, the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents (including any order in respect of the Required Milestones specified herein) without the written consent of the Required Lenders or the filing by a Credit Party of a motion for reconsideration with respect to the DIP Order, or the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order shall otherwise not be in full force and effect or (y) any Credit Party or any Subsidiary shall fail to comply with the DIP Order, the Cash Management Order or any other order with respect to any of the Chapter 11 Cases or the Canadian Recognition Proceeding affecting in any material respect this Agreement and/or the other Credit Documents, in any material respect;

(v) the Bankruptcy Court's or the Canadian Bankruptcy Court's entry of an order granting relief from the automatic stay under Section 362 of the Bankruptcy Code or the CCAA stay, as applicable, to permit foreclosure or to execute upon or enforce a Lien on any Collateral of a value in excess of $100,000;

(vi) [reserved];

(vii) the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of a trustee or an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Credit Parties;

(viii) (A) the dismissal or termination of any Chapter 11 Case or the Canadian Recognition Proceeding or (B) any Credit Party shall file a motion or other pleading seeking the dismissal of the Chapter 11 Cases under Section 1112 of the Bankruptcy Code or otherwise, or the

termination of the Canadian Recognition Proceeding;

(ix) any Credit Party shall file a motion (without consent of the Required Lenders) seeking, or the Bankruptcy Court or the Canadian Bankruptcy Court shall enter an order granting, relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code or the CCA stay, as applicable (A) to allow any creditor (other than the Administrative Agent) to execute upon or enforce a Lien on any Collateral, (B) approving any settlement or other stipulation not approved by the Required Lenders with any creditor of any Credit Party providing for payments as adequate protection or otherwise to such secured creditor (which approval may be communicated via an email from any of the Specified Lender Advisors) or (C) to permit other actions that would have a Material Adverse Effect on the Debtors or their estates (taken as a whole);

(x) the entry of an order in the Chapter 11 Cases or the Canadian Recognition Proceeding avoiding or requiring the disgorgement of any portion of the payments made on account of the Obligations owing under this Agreement or the other Credit Documents or the Pre-Petition Obligations owing under the Pre-Petition Credit Documents;

(xi) the failure of any Credit Party to perform any of its obligations under the DIP Order, the Cash Management Order, the Canadian Interim Orders or the Canadian Final Order, or any order of the Bankruptcy Court approving any Transaction or to perform in any material respect its obligations under any order of the Bankruptcy Court approving bidding procedures;

(xii) the existence of any claims or charges, or the entry of any order of the Bankruptcy Court or the Canadian Bankruptcy Court authorizing any claims or charges, other than in respect of this Agreement and the other Credit Documents, or as otherwise permitted under the applicable Credit Documents or permitted under the DIP Order, entitled to superpriority administrative expense claim status in any Chapter 11 Case pursuant to Section 364(c)(1) of the Bankruptcy Code or superiority pursuant to the CCAA, as applicable, pari passu with or senior to the claims of the Administrative Agent and the Secured Parties under this Agreement and the other Credit Documents, or there shall arise or be granted by the Bankruptcy Court or the Canadian Bankruptcy Court (i) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 or clause (b) of Section 507 of the Bankruptcy Code or (ii) any Lien on the Collateral having a priority senior to or pari passu with the Liens and security interests granted herein, except, in each case, as expressly provided in the Credit Documents or in the DIP Order or the Canadian DIP Recognition Order then in effect (including the Carve Out and the CCAA Administration Charge);

(xiii) the DIP Order shall cease to create a valid and perfected Lien (which creation and perfection shall not require any further action other than the entry of and terms of the DIP Order) on the Collateral or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders;

(xiv) an order in the Chapter 11 Cases shall be entered (i) charging any of the Collateral under Section 506(c) of the Bankruptcy Code against the Administrative Agent and the Secured Parties, or the "Secured Parties" under either Pre-Petition Credit Agreement, or (ii) limiting the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date or the commencement of other legal proceeding by a Credit Party that are materially adverse to the Administrative Agent, the Secured Parties or their respective rights and remedies under the Credit Documents in any Chapter 11 Cases or inconsistent with the

Credit Documents;

(xv) any order having been entered or granted (or requested, unless actively opposed by the Credit Parties) by either any of the Bankruptcy Court, the Canadian Bankruptcy Court or any other court of competent jurisdiction materially adversely impacting the rights and interests of the Administrative Agent and the Lenders and the other Secured Parties, as determined by the Required Lenders, acting reasonably, without the prior written consent of the Administrative Agent and the Required Lenders;

(xvi) an order of the Bankruptcy Court shall be entered denying or terminating use of cash collateral by the Credit Parties authorized by the DIP Order;

(xvii) if the Final Order does not include a waiver, in form and substance satisfactory to the Administrative Agent and the Lenders (which satisfaction may be communicated via an email from any of the Specified Lender Advisors), of (i) the right to surcharge the Collateral under Section 506(c) of the Bankruptcy Code and (ii) any ability to limit the extension under Section 552(b) of the Bankruptcy Code of the Liens of the Pre-Petition Agents on the Pre-Petition Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Credit Party after the Petition Date;

(xviii) any Credit Party shall challenge, support or encourage a challenge of any payments made to the Administrative Agent, any Lender or any other Secured Party with respect to the Obligations or to the Pre-Petition Agents or the Pre-Petition Lenders with respect to the Pre-Petition Obligations, or without the consent of the Administrative Agent or the "Required Lenders" as defined in the Pre-Petition First Lien Credit Agreement, the filing of any motion by the Credit Parties seeking approval of (or the entry of an order by the Bankruptcy Court or the Canadian Bankruptcy Court approving) adequate protection to any Pre-Petition Agent or lender that is inconsistent with the DIP Order;

(xix) without the Administrative Agent's and the Required Lenders' consent, the entry of any order by the Bankruptcy Court or the Canadian Bankruptcy Court granting, or the filing by any Credit Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court (in each case, other than the DIP Order and the Canadian DIP Recognition Order and motions seeking entry thereof or permitted amendments or modifications thereto) seeking, authority to use any cash proceeds of any of the Collateral without the Administrative Agent's and the Required Lenders' consent or to obtain any financing under Section 364 of the Bankruptcy Code or the CCAA other than the Credit Documents;

(xx) if, unless otherwise approved by the Administrative Agent and the Required Lenders (which approval of the Required Lenders may be communicated via an email from any of the Specified Lender Advisors and which approval of the Administrative Agent may be communicated via an email from the Agent Advisors), an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Cases and such order shall not be reversed or vacated within ten days;

(xxi) without Required Lender consent, any Credit Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court or the Canadian Bankruptcy Court seeking (a) to grant or impose, under Section 364 of the Bankruptcy Code or otherwise, liens or security interests in any Collateral, whether senior or equal to the Collateral Agent's liens and security interests (except as provided in the DIP Order or the Canadian DIP Recognition Order); or (b) to modify or affect any of the rights of the Administrative Agent, the Lenders or any other

Secured Party under the DIP Order, the Canadian DIP Recognition Order, the Credit Documents, and related documents, other than in accordance with the Chapter 11 Plan;

(xxii) any Credit Party or any Subsidiary thereof or any Debtor shall commence any legal proceeding or take any action in support of any matter set forth in this Section 11.1(j) or any other Person shall do so and such application is not contested in good faith by the Credit Parties and the relief requested is granted in an order that is not stayed pending appeal

(xxiii) any Debtor shall be enjoined from conducting any material portion of its business, any disruption of the material business operations of the Debtors shall occur, or any material damage to or loss of material assets of any Debtor shall occur;

(xxiv) failure of any Credit Party to use the proceeds of the Loans as set forth in and in compliance with the Approved Budget (subject to Permitted Variance) and this Agreement;

(xxv) the occurrence of any RSA Termination Event (unless waived in accordance with the terms of the RSA); or

(xxvi) the Canadian DIP Recognition Order shall cease to create the CCAA DIP Lenders Charge (which creation and perfection shall not require any further action other than the entry of and terms of the Canadian DIP Recognition Order) on the Canadian Property or to be in full force and effect, shall have been reversed, modified, amended, stayed, vacated, or subject to stay pending appeal, in the case of modification or amendment, without prior written consent of the Required Lenders.

11.2 Remedies Upon Event of Default.

(a) Subject to the terms of the DIP Order and the Remedies Notice Period, if any Event of Default occurs and is continuing, notwithstanding the provisions of Section 362 of the Bankruptcy Code, and any stay under the CCAA, without any application, motion or notice to, hearing before, or order from the Bankruptcy Court or the Canadian Bankruptcy Court, then, the Administrative Agent, upon the Direction of the Required Lenders (subject to Section 13) shall declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement immediately become due and payable, but without affecting the Collateral Agent's Liens or the Obligations, and the Administrative Agent, upon the request of the Required Lenders (subject to Section 13), shall: (i) terminate, reduce or restrict the right or ability of the Credit Parties to use any cash collateral; (ii) declare the Loans hereunder (with accrued interest thereon) and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable, (iii) subject to the Remedies Notice Period, (A) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Credit Documents or applicable law or (B) take any and all actions described in the DIP Order; and (iv) deliver a Carve Out Trigger Notice.

(b) At any hearing during the Remedies Notice Period to contest the enforcement of remedies, the only issue that may be raised by any party in opposition thereto shall be whether, in fact, an Event of Default has occurred, and the Credit Parties hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in way impair or restrict the rights and remedies of the Administrative Agent or the Secured Parties, as set forth in this Agreement, the applicable DIP Order, Canadian DIP Recognition Order or other Credit Documents. Except as expressly provided above in this Article VII, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

11.3 License; Access; Cooperation. Subject to any previously granted licenses, each of the Administrative Agent and the Collateral Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (to the extent permitted under the applicable licenses and without payment of royalty or other compensation to any Person) any or all Intellectual Property of Credit Parties, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral (in each case after the occurrence, and during the continuance, of an Event of Default). Each of the Administrative Agent and the Collateral Agent (together with its agents, representatives and designees) is hereby granted a non-exclusive right to have access to, and a rent free right to use, any and all owned or leased locations (including, without limitation, warehouse locations, distribution centers and store locations) for the purpose of arranging for and effecting the sale or disposition of Collateral, including the production, completion, packaging and other preparation of such Collateral for sale or disposition (it being understood and agreed that each of the Administrative Agent and the Collateral Agent and its representatives (and persons employed on their behalf), may continue to operate, service, maintain, process and sell the Collateral, as well as to engage in bulk sales of Collateral). Upon the occurrence and the continuance of an Event of Default and the exercise by the Administrative Agent or Lenders of their rights and remedies under this Agreement and the other Credit Documents, the Borrower shall assist the Administrative Agent, the Collateral Agent and Lenders in effecting a sale or other disposition of the Collateral upon such terms as are reasonably acceptable to the Administrative Agent and Required Lenders (which acceptance may be communicated via an email from any of the Specified Lender Advisors).

Section 12. Administrative Agent.

12.1 Appointment.

(a) Each Lender hereby irrevocably designates and appoints Wilmington Savings Fund Society, FSB as Administrative Agent and Escrow Agent hereunder and under the other Credit Documents, as applicable, and irrevocably authorizes the Administrative Agent and the Escrow Agent, each in its respective capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent and the Escrow Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Sections 12.1, 12.9, 12.11 and 12.12 with respect to the Parent) are solely for the benefit of the Agents, the Escrow Agent and the Lenders, and none of the Parent, the Borrower or any other Credit Party shall have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement or any other Credit Document, neither Administrative Agent nor the Escrow Agent will have any duties or responsibilities, except those expressly set forth herein or in the Escrow Agreement, as applicable, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent or the Escrow Agent. In performing its functions and duties hereunder, each Agent and the Escrow Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Credit Party or any of their respective Subsidiaries.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding

any provision to the contrary elsewhere in this Agreement or any other Credit Document, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent and the Lenders and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each Lender hereby irrevocably authorizes the Administrative Agent, based upon the instruction of the Required Lenders (but subject in all respects to the RSA), to credit bid and purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted by the Administrative Agent or the Collateral Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC (or any equivalent provision of the UCC), and the PPSA, at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code, or under Canadian Bankruptcy and Insolvency Law, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Requirements of Law. In no event shall the Agent be obligated to take title to or possession of Collateral in its own name, or otherwise in a form or manner that may, in its reasonable judgment, expose it to liability; provided that if any Agent declines to take title to or possession of Collateral because it exposes it to liability, it will promptly notify the Specified Lender Advisors thereof.

(d) Each Lender irrevocably appoints each other Lender as its agent and bailee for the purpose of perfecting Liens (whether pursuant to Section 8-301(a)(2) of the UCC or otherwise), for the benefit of the Secured Parties, in assets in which, in accordance with the UCC and the PPSA or any other applicable Requirement of Law a security interest can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly following the Administrative Agent's request therefor, shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

12.2 Delegation of Duties. The Agents may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents, subagents or attorneys-in-fact selected by it in the absence of its gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

12.3 Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the creation, perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of any Credit Party to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof. The Collateral Agent shall not be under any obligation

to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party. The rights, privileges, protections, immunities and benefits given to each Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable: (i) by such Agent in each Credit Document and any other document related hereto or thereto to which it is a party and (ii) the entity serving as such Agent in each of its capacities hereunder and in each of its capacities under any Credit Document whether or not specifically set forth therein and each agent, custodian and other Person employed to act hereunder and under any Credit Document or related document, as the case may be. Notwithstanding anything contained in this Agreement to the contrary, neither Agent shall be under any obligation (i) to monitor, determine or verify the unavailability or cessation of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any date on which such rate may be required to be transitions or replaced in accordance with the terms of the Credit Documents, applicable law or otherwise, (ii) to select, determine or designate any replacement to such rate, or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate have been satisfied, (iii) to select, determine or designate any modifier to any replacement or successor index, or (iv) to determine whether or what any amendments to this Agreement or the other Credit Documents are necessary or advisable, if any, in connection with any of the foregoing. Neither Agent shall be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Agreement or any other Credit Document as a result of the unavailability of LIBOR or the Eurocurrency Rate (or other applicable benchmark interest rate), including as a result of any inability, delay, error or inaccuracy on the part of any other party, including without limitation the Required Lenders or the Credit Parties, in providing any direction, instruction, notice or information required or contemplated by the terms of this Agreement and reasonably required for the performance of such duties. Neither Agent shall have any liability for any interest rate published by any publication that is the source for determining the interest rates of the Loans, including but not limited to Bloomberg (or any successor source) and the Reuters Screen (or any successor source), or for any rates compiled by the ICE Benchmark Administration or any successor thereto, or for any rates published on any publicly available source, including without limitation the Federal Reserve Bank of New York's Website, or in any of the foregoing cases for any delay, error or inaccuracy in the publication of any such rates, or for any subsequent correction or adjustment thereto.

12.4 Reliance by Agents. The Agents shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including the Agent Advisors, the Lender Advisors, the Specified Lender Advisors and counsel to the Escrow Agent), independent accountants and other experts selected by such Agent. Each Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or a Direction of the Required Lender or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders or a Direction of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans; provided that the Administrative Agent and the Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or applicable law. Notwithstanding anything contained in this Credit Agreement or the other Credit Documents to the contrary, without limiting any rights,

protections, immunities or indemnities afforded to the Administrative Agent and the Collateral Agent hereunder (including without limitation this Section 12), phrases such as "satisfactory to the [Administrative] [Collateral] Agent," "approved by the [Administrative] [Collateral] Agent," "acceptable to the [Administrative] [Collateral] Agent," "as determined by the [Administrative] [Collateral] Agent," "designed by the [Administrative][Collateral] Agent", "specified by the [Administrative][Collateral] Agent", "in the [Administrative] [Collateral] Agent's discretion," "selected by the [Administrative] [Collateral] Agent," "elected by the [Administrative] [Collateral] Agent," "requested by the [Administrative] [Collateral] Agent," "in the opinion of the [Administrative] [Collateral] Agent," and phrases of similar import that authorize or permit the Administrative Agent or the Collateral Agent to approve, disapprove, determine, act, evaluate or decline to act in its discretion shall be subject to the Administrative Agent or Collateral Agent, as applicable, receiving a Direction of the Required Lenders or other written direction from the Lenders or Required Lenders, as applicable, to take such action or to exercise such rights.

12.5 Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless such Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders, the Escrow Agent and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable.

12.6 Non-Reliance on Administrative Agent, Collateral Agent, and Other Lenders. Each Lender expressly acknowledges that no Agent nor the Escrow Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by any Agent or the Escrow Agent hereinafter taken, including any review of the affairs of any Credit Party, shall be deemed to constitute any representation or warranty by any Agent or the Escrow Agent to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of an investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower and each other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any of the Credit Parties. Except for notices, reports, and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, no Agent nor the Escrow Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of any Credit Party that may come into the possession of any Agent or the Escrow Agent or any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7 Indemnification. The Lenders agree to severally indemnify each Agent and the Escrow Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Total Credit

Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent or the Escrow Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the any Agent or the Escrow Agent under or in connection with any of the foregoing; provided that no Lender shall be liable to an Agent or the Escrow Agent for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction; provided, further, that no action taken by any Agent or the Escrow Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent and the Escrow Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent or the Escrow Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent or the Escrow Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. If any indemnity furnished to any Agent or the Escrow Agent for any purpose shall, in the opinion of such Agent or the Escrow Agent, as applicable, be insufficient or become impaired, such Agent or the Escrow Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided that in no event shall this sentence require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's pro rata portion thereof; and provided, further, this sentence shall not be deemed to require any Lender to indemnify any Agent or the Escrow Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement resulting from such Agent's or the Escrow Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder. The indemnity provided to each Agent and the Escrow Agent under this Section 12.7 shall also apply to such Agent's and the Escrow Agent's respective Affiliates, directors, officers, members, partners, representatives, assigns, controlling persons, employees, trustees, investment advisors and agents and successors.

12.8 Agents in Their Individual Capacities. If applicable, the agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. Each Agent, the Escrow Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Credit Party as though such Agent or the Escrow Agent were not an Agent or the Escrow Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent and the Escrow Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may

exercise the same as though it were not an Agent or the Escrow Agent, and the terms Lender and Lenders shall include each Agent and the Escrow Agent in its individual capacity.

12.9 Successor Agents.

(a) Each Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right (subject to the consent of the Borrower (not to be unreasonably withheld, delayed or conditioned) so long as no Event of Default is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (the "**Resignation Effective Date**"), then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above (including receipt of the Borrower's consent); provided that if the any Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice.

(b) [Reserved].

(c) With effect from the Resignation Effective Date, (1) the retiring or removed agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the retiring Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as the Administrative Agent or the Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section 12.9). Except as provided above, any resignation of Wilmington Savings Fund Society, FSB as the Administrative Agent pursuant to this Section 12.9 shall also constitute the resignation of Wilmington Savings Fund Society, FSB as the Collateral Agent and the Escrow Agent, subject to the terms of the Escrow Agreement. The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including Section 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender under any Credit Document an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of

a change in circumstances that rendered the exemption from, or reduction of, withholding Tax ineffective) or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Credit Party and without limiting the obligation of any applicable Credit Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due to the Administrative Agent under this Section 12.10. The agreements in Section 12.10 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

12.11 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (a) release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent (or any sub-agent thereof) under any Credit Document (i) upon the Maturity Date and Full Payment of all Obligations (except for contingent indemnification obligations), (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted hereunder or under any other Credit Document to a Person that is not a Credit Party, (iii) if the property subject to such Lien is owned by a Credit Party, upon the release of such Credit Party from its Guarantee otherwise in accordance with the Credit Documents, (iv) as to the extent provided in the Security Documents, (v) that constitutes Excluded Property or (vi) if approved, authorized or ratified in writing in accordance with Section 13.1; (b) release any Guarantor from its obligations under the Guarantee if such Person ceases to be a Credit Party (or becomes an Excluded Subsidiary) as a result of a transaction or designation permitted hereunder or (c) subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Credit Document to the holder of any Lien permitted under clause (vi) (solely with respect to Section 10.1(d)), and (ix) of the definition of Permitted Lien. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Credit Parties, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, the Credit Parties or any substantial part of its property, or otherwise, all as though such payment had not been made.

The Collateral Agent shall have its own independent right to demand payment of the amounts payable by the Borrower under this Section 12.11, irrespective of any discharge of the Borrower's obligations to pay those amounts to the other Lenders resulting from failure by them to take appropriate steps in insolvency proceedings affecting the Borrower to preserve their entitlement to be paid those amounts.

Any amount due and payable by the Borrower to the Collateral Agent under this Section 12.11 shall be decreased to the extent that the other Lenders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Credit Documents and any amount due and

payable by the Borrower to the Collateral Agent under those provisions shall be decreased to the extent that the Collateral Agent has received (and is able to retain) payment in full of the corresponding amount under this Section 12.11.

Prior to taking any action or executing any document pursuant to this Section 12.11 or Section 12.12, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by a Financial Officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied. The Administrative Agent and the Collateral Agent shall not be liable for executing any documents or instruments pursuant to Section 12.11 or 12.12 to the extent the Collateral Agent did so upon the Direction of the Required Lenders (which consent may be provided via email by any of the Specified Lender Advisors).

12.12 Right to Realize on Collateral and Enforce Guarantee.

(a) Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrower (on behalf of itself and each other Credit Party), the Administrative Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Credit Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms hereof and thereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Administrative Agent for the benefit of the Secured Parties in accordance with the terms thereof, and (ii) in the event of a foreclosure or similar enforcement action by the Administrative Agent or the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code), the Administrative Agent or the Collateral Agent (or any Lender, except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code) may, upon instruction from the Required Lenders, be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Administrative Agent or the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent at such sale or other disposition.

(b) Release of Collateral and Guarantees, Termination of Credit Documents.

(i) Notwithstanding anything to the contrary contained herein or any other Credit Document, when all Obligations have been Paid in Full and all Commitments have terminated or expired, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any other Secured Party) take such actions as shall be required or reasonably requested to release its security interest in all Collateral, and to release all guarantee obligations provided for in any Credit Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Credit Party, or upon or as a result of the appointment of a receiver, receiver and manager, intervenor or conservator of, or trustee or similar officer for, any Credit Party or any substantial part of its property, or otherwise, all as though such payment had

not been made.

(ii) The Agents shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(iii) In case of the pendency of any proceeding under the Bankruptcy Code or any other Debtor Relief Laws relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(A) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(B) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due the Administrative Agent under this Agreement) allowed in such judicial proceeding; and

(C) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

(D) and any custodian, administrator, administrative receiver, receiver, receiver and manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under this Agreement out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

(iv) Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, plan of liquidation, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

12.13 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Credit Party or any other obligor under any of the Credit Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures or cause any of the foregoing (through Affiliates or otherwise), with respect to any Collateral or any other property of any such Credit Party, without the prior written consent of the Administrative Agent (at the Direction of the Required Lenders). Without limiting the foregoing, each Lender agrees that, except as otherwise provided in any Credit Documents or with the written consent of the Administrative Agent (at the Direction of the Required Lenders), it will not take any enforcement action, accelerate Obligations under any Credit Documents, or exercise any right that it might otherwise have under applicable Requirement of Law to credit bid or purchase any portion of the Collateral at any sale or foreclosure thereof referred to in Section 12.1; provided that nothing contained in this Section shall affect any Lender's right to credit bid its pro rata share of the Obligations pursuant to Section 363(k) of the Bankruptcy Code.

12.14 Carve Out Account. In connection with the DIP Order, the Administrative Agent is hereby authorized and directed to establish and maintain a single segregated non-interest bearing trust account which shall be designated as the "Pre-Carve Out Trigger Notice Reserve Account" and a single segregated non-interest bearing trust account which shall be designated as the "Post-Carve Out Trigger Notice Reserve Account" (such accounts, collectively, the "**Carve Out Accounts**"). Funds will be deposited into and remitted from the Carve Out Accounts in accordance with and pursuant to the terms of the DIP Order.

Section 13. Miscellaneous

13.1 Amendments, Waivers, and Releases.

(a) (a) Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. Other than with respect to any amendment, modification or waiver contemplated in the proviso to clause (i) below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders, the Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (A) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (B) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or the Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (x) (i) forgive or reduce any portion of any Loan or extend the scheduled maturity date of any Loan or reduce the stated rate of interest, premium or fees (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion thereof, or extend the date for the payment of any interest,

premium or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or amend or modify any provisions of Sections 5.3(a) (with respect to the ratable allocation of any payments only) 13.9(a) or 13.20, or make any Loan, interest, Fee or other amount payable in any currency other than expressly provided herein, in each case without the written consent of each Lender directly and adversely affected thereby; provided that a waiver of any condition precedent in Sections 6 or 7 of this Agreement, the waiver of any Default, Event of Default, default interest, mandatory prepayment or reductions, any modification, waiver or amendment to the financial covenant definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute an increase of any Commitment of a Lender, a reduction or forgiveness in the interest rates or the fees or premiums or a postponement of any date scheduled for the payment of principal, premium, interest or fees or an extension of the final maturity of any Loan or the scheduled termination date of any Commitment, in each case for purposes of this clause (i), or (ii) consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3), in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of this Agreement or any other Credit Document without the written consent of each Agent or the Escrow Agent in a manner that directly and adversely affects such Agent or the Escrow Agent, as applicable, or (iv) [reserved], or (v) [reserved], or (vi) [reserved], or (vii) release all or substantially all of the Guarantors under the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (viii) [reserved], or (ix) reduce the percentages specified in the definitions of the terms Required Lenders or amend, modify or waive any provision of this Section 13.1 that has the effect of decreasing the number of Lenders that must approve any amendment, modification or waiver, without the written consent of each Lender or (y) notwithstanding anything to the contrary in clause (x), (i) extend the final expiration date of any Lender's Commitment or (ii) increase the aggregate amount of the Commitments of any Lender, in each case, without the written consent of such Lender.

(b) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except (x) that the Commitment of such Lender may not be increased or extended without the consent of such Lender, (y) for any such amendment, waiver or consent that treats such Defaulting Lender disproportionately from the other Lenders (other than because of its status as a Defaulting Lender), and (z) that the principal amount of any Loan owed to such Lender may not be decreased or reduced without the consent of such Lender.

(c) [Reserved].

(d) Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Parent, the Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Parent, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

(e) [Reserved].

(f) [Reserved].

(g) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement, (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the second following sentence), (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents, and (vii) if such assets constitute Excluded Property. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender. Prior to taking any action or executing any document pursuant to this section, each of the Administrative Agent and the Collateral Agent shall be entitled to receive, and may conclusively rely upon without incurring liability therefor, an officer's certificate executed by officer of the Borrower certifying that such action and execution of such documents are authorized and permitted under this Agreement and any other Credit Document and all conditions precedent to such release or execution have been satisfied.

(h) Notwithstanding anything herein to the contrary, the Credit Documents may be amended to add syndication or documentation agents and make customary changes and references related thereto with the consent of only the Borrower and the Administrative Agent.

(i) Notwithstanding anything in this Agreement (including, without limitation, this Section 13.1) or any other Credit Document to the contrary, (i) [reserved]; (ii) [reserved]; (iii) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; and (iv) guarantees, collateral documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by the Required Lenders (which approval may be communicated via email by any Specified Lender Advisor) and may be, together with any other Credit Document, entered into, amended, supplemented or waived, without the consent of any other Person, by the applicable Credit Party or Credit Parties and the Administrative Agent or the Collateral Agent (in each case acting at the Direction of the Required Lenders in their sole discretion), to (A) effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, (B) as required

by local law or advice of counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with any applicable Requirement of Law, or (C) to cure ambiguities, omissions, mistakes or defects (as reasonably determined by the Administrative Agent, the Required Lenders and the Borrower) or to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Credit Documents.

(j) Notwithstanding anything in this Agreement or any Security Document to the contrary, the Required Lenders may, in their sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 9.12, 9.13 and 9.14 or any Security Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Borrower and the other Credit Parties by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Security Documents.

13.2 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Parent, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Parent, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9 and 5.1 shall not be effective until received.

13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5 Payment of Expenses; Indemnification.

(a) The Borrower agrees to pay promptly following demand (and in any event as required by the DIP Order and/or the Canadian DIP Recognition Order), without the requirement of prior Bankruptcy Court approval and whether incurred before or after the Petition Date, all reasonable and documented out-of-pocket legal, accounting, appraisal, consulting, financial advisory and other fees, costs and expenses (including, without limitation, in respect of the Specified Lender Advisors, the Crossholder Lender Advisors, the Lender Advisors and the Agent Advisors) incurred by the Agents, the Ad Hoc Group of Lenders, the Ad Hoc Group of Crossholder Lenders and their respective Affiliates in connection with the negotiation, preparation and administration of the Credit Documents, the Interim Order, the Final Order, the Canadian DIP Recognition Order or incurred in connection with:

(i) amendment, modification or waiver of, consent with respect to, or termination of, any of the Credit Documents or advice in connection with the syndication and administration of the Loans made pursuant hereto, including any Withdrawal, or its rights hereunder or thereunder

(ii) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agents, any Lender, the Borrower or any other Person and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the Credit Documents, the Pre-Petition Credit Documents, or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case or proceeding commenced by or against any Credit Party or any other Person that may be obligated to the Agents or the Lenders by virtue of the Credit Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; provided that no Person shall be entitled to reimbursement under this clause (ii) in respect of any litigation, contest, dispute, suit, proceeding or action to the extent any of the foregoing results from such Person's gross negligence or willful misconduct (as determined by a final non-appealable judgment of a court of competent jurisdiction);

(iii) any attempt to enforce or prosecute any rights or remedies of the Agents or any Lender against any or all of the Credit Parties or any other Person that may be obligated to the Agents or any Lender by virtue of any of the Credit Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans prior to or during the pendency of one or more Events of Default;

(iv) any work-out or restructuring of the Obligations prior to or during the pendency of one or more Events of Default;

(v) [reserved];

(vi) the obtaining of approval of the Credit Documents by the Bankruptcy Court or any other court;

(vii) the preparation and review of pleadings, documents, orders and reports related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, attendance at meetings, court hearings or conferences related to the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases, and general monitoring of the Chapter 11 Cases, the Canadian Recognition Proceeding and any Successor Cases and any action, arbitration or other proceeding (whether instituted by or against the Agents, any Lender, any Credit Party, any representative of creditors of an Credit Party or any other Person) in any way relating to any

Collateral (including the validity, perfection, priority or avoidability of the Liens with respect to any Collateral), the Pre-Petition Credit Documents, Credit Documents or the Obligations, including any lender liability or other claims;

(viii) efforts to (1) monitor the Loans or any of the other Obligations, (2) evaluate, observe or assess any of the Credit Parties or their respective affairs, (3) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral or (4) settle or otherwise satisfy any charges or Liens with respect to any Collateral;

(ix) any lien searches or request for information listing financing statements or liens filed or searches conducted to confirm receipt and due filing of financing statements and security interests in all or a portion of the Collateral; and

(x) including, as to each of clauses (i) through (ix) above, all reasonable and documented professional and service providers' fees arising from such services and other advice, assistance or other representation, including those in connection with any appellate proceedings, and all reasonable and documented out-of-pocket expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 13.5, all of which shall be payable by Borrower to the Agents or the Lenders, as applicable.

Without limiting the generality of the foregoing, such reasonable expenses, costs, charges and fees may include: reasonable and documented out-of-pocket fees, costs and expenses of accountants, sales consultants, financial advisors, the Agent Advisors, any Specified Lender Advisors, any Lender Advisor, environmental advisors, appraisers, investment bankers, management and other consultants; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; air express charges, and reasonable expenses for travel, lodging and food paid or incurred in connection with the performance of such legal, professional or other advisory services; provided that, notwithstanding anything to the contrary contained in this Section 13.5(a) or in any other Credit Document, each Credit Party reaffirms its obligation to pay the fees as set forth in the Financial Advisor Engagement Letters.

(b) The Borrower (on behalf of itself and the other Credit Parties) agrees to pay, indemnify and hold harmless each Lender, each Agent and their respective Related Parties (without duplication) (the "**Indemnified Persons**") from and against any and all losses, claims, damages, liabilities, obligations, demands, actions, judgments, suits, costs, expenses, disbursements or penalties of any kind or nature whatsoever (and the reasonable and documented fees, expenses, disbursements and other charges of any Specified Lender Advisors, any Lender Advisors and the Agent Advisors owed pursuant to Section 13.5(a)) of any such Indemnified Person arising out of or relating to any action, claim, litigation, investigation or other proceeding (regardless of whether such Indemnified Person is a party thereto), arising out of any Commitment, Loan or the use or proposed use of the proceeds therefrom, arising out of, or with respect to the Transactions or to the execution, delivery, performance, administration and enforcement of this Agreement, the other Credit Documents and any such other documents, agreements, letters or instruments delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, including any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law or any actual or alleged presence, Release or threatened Release of Hazardous Materials attributable to any Credit Party or any of its Subsidiaries (all the foregoing in this clause (iii), regardless of whether brought by any Credit Party, any of its subsidiaries or any other Person collectively, the "**Indemnified Liabilities**"); provided that the Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from (i) the gross negligence, bad faith or willful misconduct of such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, (ii) a material

breach of the obligations of such Indemnified Person (other than with respect to each Agent) or any of its Related Parties under the terms of this Agreement by such Indemnified Person or any of its Related Parties as determined in a final and non-appealable judgment of a court of competent jurisdiction, or (iii) any proceeding between and among Indemnified Persons that does not involve an act or omission by any Credit Party or any of their respective Subsidiaries; provided the Agents, to the extent acting in their capacity as such, shall remain indemnified in respect of such proceeding, to the extent that the exception set forth in the immediately preceding clause (i) of the immediately preceding proviso does not apply to such Agent at such time. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, liabilities, obligations, penalties, actions, judgments, suits, costs, expenses or disbursements arising from any non-Tax claim.

(c) Each Indemnified Person agrees (x) that the Borrower shall have no obligation to reimburse such Indemnified Person for fees and expenses and (y) to return and refund any and all amounts paid by the Borrower pursuant to this Section 13.5, in the case of each of clauses (x) and (y), to the extent such Indemnified Person is not entitled to payment of such amounts in accordance with the terms of the Credit Documentation.

(d) No Credit Party or Indemnified Person (or any Related Party of an Indemnified Person) shall have any liability for any special, punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that the foregoing shall not limit the Borrower's indemnification obligations to the Indemnified Persons pursuant to Section 13.5(a) or under any other provision of this Agreement or any of the other Credit Agreement Documents. No Indemnified Person (or any Related Party of an Indemnified Person) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Person or any of its Related Parties as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) All amounts reimbursable by the Borrower under this Section 13.5 shall constitute Obligations secured by the Collateral. The agreements in this Section 13.5 shall survive the termination of the Commitments and repayment of all other Obligations. All amounts due under this Section 13.5 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto. If the Borrower fail to pay when due any amounts payable by it hereunder or under any Credit Document, such amount may be paid on behalf of the Borrower by the Administrative Agent in its discretion by charging any loan account(s) of the Borrower, without notice to or consent from the Borrower, and any amounts so paid shall constitute Obligations hereunder.

13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby,

the Related Parties of each of the Administrative Agent, the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below and Section 13.7, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, delayed or conditioned) of

(A) the Parent; provided that no consent of the Borrower shall be required for (1) an assignment Loans or Commitments of to a Lender, an Affiliate of a Lender, or an Approved Fund or (2) an assignment of Loans or Commitments to any assignee if an Event of Default has occurred and is continuing or (3) so long as made in accordance with the RSA; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

The Parent's consent shall be deemed to have been given if the Borrower has not responded within four Business Days after having received notice thereof. Notwithstanding the foregoing, no such assignment shall be made to a natural Person.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 in the case of Term Loans (and shall, in each case be in an integral multiple thereof), unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld, delayed or conditioned) or, if less, the assignment constitutes all of the applicable Lender's Term Loans; provided that no such consent of the Borrower shall be required if an Event of Default under Section 11.1(a) has occurred and is continuing; provided, further, that contemporaneous assignments by a Lender and its Affiliates or Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above (and simultaneous assignments to or by two or more Related Funds shall be treated as one assignment), if any;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of the Term Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic

settlement system or other method reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "**Administrative Questionnaire**") and applicable tax forms (as required under Section 5.4(e)); and

(E) any assignment to an Affiliated Lender (other than an Affiliated Institutional Lender) shall also be subject to the requirements of Section 13.6(h); and

(F) such assignment shall be permitted by, and in accordance with, the RSA.

For the avoidance of doubt, the Administrative Agent bears no responsibility for tracking or monitoring assignments to or participations by any Affiliated Lender.

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(v) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and the other Credit Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 3.5, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6. For the avoidance of doubt, in case of an assignment to a new Lender pursuant to this Section 13.6, (i) the Administrative Agent, the new Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the new Lender been an original Lender signatory to this Agreement with the rights and/or obligations acquired or assumed by it as a result of the assignment and to the extent of the assignment the assigning Lender shall each be released from further obligations under the Credit Documents and (ii) the benefit of each Security Document shall be maintained in favor of the new Lender.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans (and stated interest amounts) owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent, the Administrative Agent and its Affiliates and, with respect to itself, any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Borrower hereby designates the Administrative Agent to serve as the Borrower's agent solely for purposes of maintaining the Register as provided in this Section 13.6(b)(iv). This Section 13.6(b)(iv) shall

be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury Regulations (or any other relevant or successor provisions of the Code or of such Treasury Regulations).

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (as required under Section 5.4(e) unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause (b)(v).

(c) (i) Any Lender may, without the consent of, or notice to the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (other than (x) a natural person, (y) any Credit Party or any of their Subsidiaries and (z) [reserved] (each, a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (i) and (vii) of the third proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11, 3.5, and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4) (it being agreed that any documentation required under Section 5.4(e) shall be provided to the participating Lender)). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.9(b) as though it were a Lender; provided such Participant shall be subject to Section 13.9(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than the applicable Lender would have been entitled to receive absent the sale of such the participation sold to such Participant, except to the extent such entitlement to a greater payment results from a Change in Law after the sale of the participations takes place. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest amounts) of each Participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) except to the extent that such disclosure is necessary in connection with a tax audit or other proceeding to establish that such commitment, loan, or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

(d) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, or other central bank having jurisdiction over such Lender, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "**Transferee**") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPV**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other Person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and the Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) subject to Section 13.16, disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement but subject to the following sentence, each SPV shall be entitled to the benefits of Sections 2.10, 2.11, 3.5 and 5.4 to the same extent as if it were a Lender (subject to the limitations and requirements of those Sections as though it were a Lender

and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, including the requirements of clause (e) of Section 5.4 (it being agreed that any documentation required under Section 5.4(e) shall be provided to the Granting Lender)). Notwithstanding the prior sentence, an SPV shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than its Granting Lender would have been entitled to receive absent the grant to such SPV, unless such grant to such SPV is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

(h) Notwithstanding anything to the contrary contained herein (and so long as no Event of Default is then continuing), (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to an Affiliated Lender; provided that:

(i) [reserved];

(ii) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (I) attend or participate in (including, in each case, by telephone) any meeting (including "Lender only" meetings) or discussions (or portion thereof) among the Administrative Agent or any Lender at which representatives of the Borrower are not then present, (II) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among the Administrative Agent and one or more Lenders or any other material which is "Lender only", except to the extent such information or materials have been made available to the Borrower or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Section 2) or receive any advice of counsel to the Administrative Agent or (III) make any challenge to the Administrative Agent's or any other Lender's attorney-client privilege on the basis of its status as a Lender; and

(B) except with respect to any amendment, modification, waiver, consent or other action (I) in Section 13.1 requiring the consent of all Lenders, all Lenders directly and adversely affected or specifically such Lender, (II) that alters an Affiliated Lender's pro rata share of any payments given to all Lenders, or (III) affects the Affiliated Lender (in its capacity as a Lender) in a manner that is disproportionate to the effect on any Lender, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote (and, in the case of a plan of reorganization that does not affect the Affiliated Lender in a manner that is materially adverse to such Affiliated Lender relative to other Lenders, shall be deemed to have voted its interest in the Term Loans in the same proportion as the other Lenders) (and shall be deemed to have been voted in the same percentage as all other applicable Lenders voted if necessary to give legal effect to this paragraph); and

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders may not exceed 25% of the aggregate principal amount of all Term Loans outstanding at the time of such purchase.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders. None of the Borrower, the Parent, any other Subsidiary of the Parent or any Affiliated Lender shall be required to make any representation that it is not in possession of information which is not publicly available and/or material with respect to the Parent, the Borrower and their respective Subsidiaries or their respective securities for purposes of U.S. federal and state securities laws and all parties to the relevant transactions shall render customary "big boy" disclaimer letters.

(i) Notwithstanding anything to the contrary contained herein, the Lenders hereto on the Funding Date may assign all or a portion of its rights and obligations under this Agreement in respect of the Term Loans on the Funding Date to an Affiliated Lender or any Pre-Petition Lender (or any Affiliated Lender thereof) in connection with the syndication of the Term Loans contemplated in the RSA.

13.7 [Reserved]

13.8 Replacement of Lenders Under Certain Circumstances.

(a) The Borrower, at its cost and expense (which, for the avoidance of doubt, may be shared with the replacement institution with such institution's consent), shall be permitted to replace any Lender, and in the case of a Lender repay all Obligations of the Borrower due and owing to such Lender relating to the Loans that (a) requests reimbursement for amounts owing pursuant to Sections 2.10 or 5.4, (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, or (c) becomes a Defaulting Lender, with a replacement bank or other financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts pursuant to Sections 2.10, 2.11, 5.4 or 13.5, as the case may be, owing to such replaced Lender prior to the date of replacement, (iv) the replacement bank or institution, if not already a Lender, an Affiliate of the Lender, an Affiliated Lender or Approved Fund, and the terms and conditions of such replacement, shall be satisfactory to the Required Lenders, (v) the replacement bank or institution, if not already a Lender shall be subject to the provisions of Section 13.6(a), (vi) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that unless otherwise agreed the Borrower shall be obligated to pay the registration and processing fee referred to therein), and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, any Agent, the Escrow Agent or any other Lender shall have against the replaced Lender. Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 13.7 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

13.9 Adjustments; Set-off. Subject to Section 12.13, the Carve Out and the CCAA Administration Charge,

(a) Except as contemplated in Section 13.6 or elsewhere herein, if any Lender (a **"Benefited Lender**") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.1(e), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders;

provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) Subject to the DIP Order, after the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Credit Parties, any such notice being expressly waived by the Credit Parties to the extent permitted by applicable law, upon any amount becoming due and payable by the Credit Parties hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final) (other than payroll, trust, tax, fiduciary, and petty cash accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Credit Parties. Each Lender agrees promptly to notify the Credit Parties and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.10 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

13.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13.12 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrower, the other Credit Parties, the Agents, the Escrow Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrower, the other Credit Parties, any Agent, the Escrow Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents. To the extent there are any inconsistencies between the terms of this Agreement or any Credit Document and the DIP Order, the provisions of the DIP Order shall govern.

13.13 GOVERNING LAW; CONSENT TO SERVICE OF PROCESS.

(a) THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THE LAW OF THE STATE OF NEW YORK IS SUPERSEDED BY THE BANKRUPTCY CODE.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT SHALL BE BROUGHT IN THE BANKRUPTCY COURT, AND, IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM) JURISDICTION, IN THE COURTS OF THE STATE OF NEW YORK AND THE COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE LOCATED IN NEW YORK COUNTY, AND APPELLATE COURTS FROM ANY THEREOF, AND, BY

EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS. EACH PARTY HERETO HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF THE BANKRUPTCY COURT AND IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE AGENT AT ITS ADDRESS FOR NOTICES AS SET FORTH HEREIN. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY OTHER PARTY IN ANY OTHER JURISDICTION. EACH OF THE PARTIES HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN SUCH COURT AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS.

13.14 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution, and delivery of this (a) it has been advised by counsel in the negotiation, execution, and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower and the other Credit Parties, on the one hand, and the Administrative Agent, the Lenders, the other Agents and the Escrow Agent on the other hand, and the Borrower and the other Credit Parties are capable of evaluating and understanding and understand and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof);

(i) in connection with the process leading to such transaction, each of the Administrative Agent, the other Agents and the Escrow Agent, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees, or any other Person;

(ii) neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent, other Agents, the Escrow Agent or any Lender has advised or is currently advising the Borrower, the

other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent, other Agents, the Escrow Agent nor any Lender has any obligation to the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents;

(iii) the Administrative Agent, each other Agent, the Escrow Agent, each Lender and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and their Affiliates, and neither the Administrative Agent, any other Agent, the Escrow Agent nor any Lender has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and

(iv) neither the Administrative Agent, any other Agent, the Escrow Agent any Lender nor any of their respective Affiliates has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby agrees (on behalf of itself and the other Credit Parties) that it will not claim that any Agent or the Escrow Agent owes a fiduciary or similar duty to the Credit Parties in connection with the Transactions contemplated hereby and waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent, any other Agent, the Escrow Agent or any Lender with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

13.15 WAIVERS OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

13.16 Confidentiality. The Administrative Agent, each other Agent and each Lender (collectively, the "**Restricted Persons**" and, each a "**Restricted Person**") shall treat confidentially all non-public information provided to any Restricted Person by or on behalf of any Credit Party hereunder with respect to such Credit Party or any of its Subsidiaries and their businesses in connection with such Restricted Person's evaluation of whether to become a Lender hereunder or obtained by such Restricted Person pursuant to the requirements of this Agreement ("**Confidential Information**") and shall not publish, disclose or otherwise divulge such Confidential Information; provided that nothing herein shall prevent any Restricted Person from disclosing any such Confidential Information (a) pursuant to the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by applicable law, rule or regulation or compulsory legal process (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (b) upon the request or demand of any regulatory authority having jurisdiction over such Restricted Person or any of its Affiliates (in which case such Restricted Person agrees (except with respect to any routine or ordinary course audit or examination conducted by bank accountants or any governmental or bank regulatory authority exercising examination or regulatory authority) to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (c) to the extent that such Confidential Information becomes

publicly available other than by reason of improper disclosure by such Restricted Person or any of its affiliates or any related parties thereto in violation of any confidentiality obligations owing under this Section 13.16, (d) to the extent that such Confidential Information is received by such Restricted Person from a third party that is not, to such Restricted Person's knowledge, subject to confidentiality obligations owing to any Credit Party or any of their respective subsidiaries or affiliates, (e) to the extent that such Confidential Information was already in the possession of the Restricted Persons prior to any duty or other undertaking of confidentiality or is independently developed by the Restricted Persons without the use of such Confidential Information, (f) to such Restricted Person's affiliates and to its and their respective officers, directors, partners, employees, legal counsel, independent auditors, and other experts or agents who need to know such Confidential Information in connection with providing the Loans or action as an Agent hereunder and who are informed of the confidential nature of such Confidential Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) (with each such Restricted Person, to the extent within its control, responsible for such person's compliance with this paragraph), (g) to potential or prospective Lenders, hedge providers, participants or assignees, in each case who agree (pursuant to customary syndication practice) to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16); provided that (i) the disclosure of any such Confidential Information to any Lenders, hedge providers or prospective Lenders, hedge providers or participants or prospective participants referred to above shall be made subject to the acknowledgment and acceptance by such Lender, hedge provider or prospective Lender or participant or prospective participant that such Confidential Information is being disseminated on a confidential basis (on substantially the terms set forth in this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16) in accordance with the standard syndication processes of such Restricted Person or customary market standards for dissemination of such type of information, which shall in any event require "click through" or other affirmative actions on the part of recipient to access such Confidential Information and (ii) [reserved], (h) for purposes of establishing a "due diligence" defense, or (i) to rating agencies in connection with obtaining ratings for the Borrower and the DIP Facility to the extent such rating agencies are subject to customary confidentiality obligations of professional practice or agree to be bound by the terms of this Section 13.16 (or confidentiality provisions at least as restrictive as those set forth in this Section 13.16). Notwithstanding the foregoing, (i) Confidential Information shall not include, with respect to any Person, information available to it or its Affiliates on a non-confidential basis from a source other than the Parent, its Subsidiaries or their respective Affiliates, (ii) the Administrative Agent shall not be responsible for compliance with this Section 13.16 by any other Restricted Person (other than its officers, directors or employees), (iii) in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Parent or any of its Subsidiaries, and (iv) each Agent and each Lender may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration, settlement and management of this Agreement and the other Credit Documents.

13.17 Direct Website Communications. Each of the Parent and the Borrower may, at their option, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial, and other reports, certificates, and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded

communications being referred to herein collectively as "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Credit Parties, the Administrative Agent, any other Agent, the Escrow Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

The Agents agree that the receipt of the Communications by any Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to such Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(a) The Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "**Platform**"), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(b) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY THE CREDIT PARTIES (THE "**BORROWER MATERIALS**") OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Related Parties (collectively, the "**Agent Parties**" and each an "**Agent Party**") have any liability to the Borrower, any Lender, or any other Person for losses, claims, damages, liabilities, or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or such Agent's transmission of Borrower Materials through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or any of its Related Parties' (other than any trustee or advisor)) gross negligence, bad faith or willful misconduct as determined in the final non-appealable judgment of a court of competent jurisdiction.

(c) The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to the Parent, the Borrower, the Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrower has indicated contains only publicly available information with

respect to the Borrower may be posted on that portion of the Platform designated for such public-side Lenders. If the Borrower has not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Credit Parties and their securities. Notwithstanding the foregoing, the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information; provided, however, that, the following documents shall be deemed to be marked "PUBLIC," unless the Borrower notifies the Administrative Agent promptly that any such document contains material nonpublic information: (1) the Credit Documents, (2) any notification of changes in the terms of the DIP Facility and (3) all financial statements and certificates delivered pursuant to Sections 9.1(b) and (d).

13.18 USA PATRIOT Act. Each Agent, the Escrow Agent and each Lender hereby notifies each Credit Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**"), it is required to obtain, verify, and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Agent, the Escrow Agent and such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with its normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with its normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate joint and several obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

13.20 Payments Set Aside. To the extent that any payment by or on behalf of the Parent or the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver, receiver and manager or any other party, in connection with any proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

13.21 No Fiduciary Duty. Each Agent, the Escrow Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that

conflict with those of the Credit Parties, their stockholders and/or their affiliates. Each Credit Party agrees that nothing in the Credit Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Credit Party, its stockholders or its affiliates, on the other. The Credit Parties acknowledge and agree that (i) the transactions contemplated by the Credit Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and the Credit Parties, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Credit Party, its stockholders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Credit Party, its stockholders or its Affiliates on other matters) or any other obligation to any Credit Party except the obligations expressly set forth in the Credit Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Credit Party, its management, stockholders or creditors. Each Credit Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Credit Party agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Credit Party, in connection with such transaction or the process leading thereto.

13.22 Canadian Anti-Money Laundering. The Borrower acknowledges that, pursuant to AML Legislation, the Agents, the Escrow Agent and the Lenders may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any of the Agents, the Escrow Agent or the Lenders, or any prospective assignee or participant of any of the Agents, the Escrow Agent or the Lenders, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If any of the Agents or the Escrow Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then such Agent or the Escrow Agent, as applicable:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and such Agent within the meaning of applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that none of the Agents nor the Escrow Agent has any obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, nor to confirm the completeness or accuracy of any information any of the Agents or the Escrow Agent obtains from the Borrower or any such authorized signatory in doing so.

13.23 [Reserved].

13.24 Acknowledgement and Consent to Bail-In of any Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Bank

that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of a Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by a Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Bank that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any Resolution Authority.

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IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

POINTWELL LIMITED,
as the Parent

By: _____

Name:
Title:

SKILLSOFT CORPORATION,
as the Borrower

By: _____

Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent, Escrow Agent and Collateral Agent

By: _____

Name:
Title:

_____,
as Lender

By: _____

Name:
Title:

TAB MM

Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018

Docket #0013 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ORDER (I) SCHEDULING COMBINED HEARING TO CONSIDER (A) APPROVAL OF DISCLOSURE STATEMENT, (B) APPROVAL OF SOLICITATION PROCEDURES AND FORMS OF BALLOTS, AND (C) CONFIRMATION OF PREPACKAGED PLAN; (II) ESTABLISHING AN OBJECTION DEADLINE TO OBJECT TO DISCLOSURE STATEMENT AND PLAN; (III) APPROVING THE FORM AND MANNER OF NOTICE OF COMBINED HEARING, OBJECTION DEADLINE, AND NOTICE OF COMMENCEMENT; (IV) CONDITIONALLY WAIVING REQUIREMENT OF FILING STATEMENT OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES; (V) APPROVING NOTICE AND OBJECTION PROCEDURES FOR THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (VI) CONDITIONALLY WAIVING REQUIREMENT TO CONVENE THE SECTION 341 MEETING OF CREDITORS; AND (VII) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105(a), 341, 521(a), 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1007, 2002, 3017, AND 3018

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Relief Requested

1. By this Motion, pursuant to sections 105(a), 341, 521(a), 1125, 1126 and 1128 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules 1007, 2002, 3017, and 3018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rules 1007-1, 1007-2, 3017-1 and 3018-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors request entry of an order:

(i) scheduling a combined hearing (the "**Combined Hearing**") to (a) approve the *Disclosure Statement for Joint Prepackaged Plan Chapter 11 of Skillsoft Corporation and its Affiliated Debtors* (as may be amended, modified, or supplemented from time to time, the "**Disclosure Statement**"), (b) approve the Solicitation Procedures (as defined herein) with respect to the Prepackaged Plan, including the forms of Ballots (as defined herein), and (c) consider confirmation of the *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as may be amended, modified, or supplemented from time to time, the "**Prepackaged Plan**");[2]

(ii) establishing an Objection Deadline (as defined below) to object to the adequacy of the Disclosure Statement or confirmation of the Prepackaged Plan;

(iii) approving the notice and objection procedures in connection with the assumption of executory contracts and unexpired leases pursuant to the Prepackaged Plan;

(iv) approving the form and manner of notice of the Combined Hearing, the Objection Deadline, and notice of commencement of these chapter 11 cases (the "**Combined Notice**");

(v) extending the time for the Debtors to file schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") through and including August 7, 2020 (the "**SOAL/SOFA Deadline**"), and conditionally waiving the requirement that the Debtors file the Schedules and Statements upon confirmation of the Prepackaged Plan;

[2] Capitalized terms used but not defined herein shall have the respective meaning ascribed to such terms in the Prepackaged Plan or in the First Day Declaration (as defined herein).

(vi) conditionally waiving the requirement to convene the meeting of creditors under section 341 of the Bankruptcy Code if the Prepackaged Plan becomes effective on or before the SOAL/SOFA Deadline; and

(vii) granting related relief.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

3. The following table summarizes proposed dates related to relief requested in the Motion (subject to the Court's calendar), which comply with the milestones contained in the Restructuring Support Agreement (as defined herein).

Event	Deadline	Notes
Voting Record Date	June 12, 2020	N/A
Commencement of Solicitation (the "**Solicitation Date**")	June 14, 2020	N/A
Petition Date	June 14, 2020	N/A
Mailing of Combined Notice	June 18, 2020	Entry[3] of Proposed Order + 2 days
Plan Voting Deadline	June 26, 2020 at 5:00 p.m. (prevailing Eastern Time)	Solicitation Date + 12 days
Voting Certification Deadline	July 3, 2020	Plan Voting Deadline + 7 days
Plan Supplement Filing Deadline[4]	July 9, 2020	7 days prior to Plan Objection Deadline
Plan and Disclosure Statement Objection Deadline	July 16, 2020, at 4:00 p.m. (prevailing Eastern Time)	Mailing of Combined Notice + 28 days
Reply Deadline	July 21, 2020 at 12:00 p.m. (prevailing Eastern Time)	Combined Hearing Date - 2 days
Combined Hearing	July 23, 2020	Plan Objection Deadline + 7 days
Section 341(a) Meeting / Schedules and Statements Deadline (if applicable)	August 7, 2020	Combined Hearing Date + 15 days

[3] This date assumes entry of the Proposed Order by June 16.

[4] Local Rule 3016–2 requires that, unless otherwise ordered by the Court, a debtor file the plan supplement by no later than seven days prior to the earlier of (i) the deadline to vote on the plan and (ii) the deadline to object to the plan. Del. Bankr. L.R. 3016–2. The Debtors' proposed confirmation schedule sets the plan supplement filing deadline seven days prior to the deadline to object to the plan, but after the deadline to vote on the plan. Under the circumstances of this "straddle" prepackaged plan, the Debtors submit that filing the plan supplement seven days prior to the plan objection deadline will provide parties in interest sufficient time to review the documents contained therein and file any objections thereto. Similar relief has been granted in other straddle prepackaged cases in this district. *See In re Longview Power, LLC*, Case No. 20–10951 (BLS) (Bankr. D. Del. Apr. 15, 2020); *In re GCX Ltd.*, Case No. 19–12031 (CSS) (Bankr. D. Del. Sept. 16, 2019); *In re Fuse, LLC*, Case No. 19–10872 (KG) (Bankr. D. Del. Apr. 24, 2019).

4. Below is a list of attachments and exhibits referenced in the Motion:

Attachment / Exhibit	Exhibit
Proposed Order	Exhibit A to this Motion
Combined Notice	Exhibit 1 to the Proposed Order
Form of Ballot for Class 3 (First Lien Debt Claims)	Exhibit B-1 to this Motion
Forms of Ballot for Class 4 (Second Lien Debt Claims)	Exhibit B-2 to this Motion
1L Memorandum	Exhibit C-1 to this Motion
2L Memorandum	Exhibit C-2 to this Motion

Jurisdiction

5. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules, the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

6. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

7. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) the Bankruptcy Rules.

8. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the

Declaration of John Frederick in Support of the Debtors' Chapter 11 Petitions and First Day Relief (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.

9. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of the members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; and (ii) an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**" and, together with the members of the Ad Hoc First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

10. Pursuant to the Restructuring Support Agreement, the Consenting Creditors agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Prior to the filing of the chapter 11 petitions on June 14, 2020, the Debtors commenced the solicitation of votes on the Prepackaged Plan through the Disclosure Statement pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement, the Debtors are seeking to emerge from chapter 11 on an expedited basis.

The Prepackaged Plan

11. The Debtors' proposed restructuring under the Prepackaged Plan provides that, among other things:

(i) each holder of a First Lien Debt Claim will receive its *pro rata* share of (i) Second Out Term Loans and (ii) 96% of the Newco Equity (subject to dilution by the Warrants and the Incentive Plans);

(ii) each holder of a Second Lien Debt Claim will receive its *pro rata* share of (i) 4% of the Newco Equity (subject to dilution by the Warrants and Incentive Plan); (ii) Tranche A Warrants; and (iii) Tranche B Warrants (in each case subject to dilution by the Incentive Plans);

(iii) holders of Allowed General Unsecured Claims against the Debtors will have their legal, equitable and contractual rights unaltered by the Plan; and

(iv) existing equity interests in the Parent will be transferred to Newco in accordance with the Restructuring Transaction Steps.

12. In addition to supporting the Prepackaged Plan, certain Consenting Creditors have agreed to provide the Debtors with up to $60 million debtor-in-possession financing in the form of a term loan facility, which will be used to the support the Debtors' working capital needs during these chapter 11 cases. In addition, certain of the Consenting Creditors will provide the Debtor with new money post-Effective Date in the form of the New First Out Term Loan Facility in an aggregate principal amount of up to $110 million.

13. Certain of the Consenting Creditors will backstop the New First Out Term Loan Facility and, as consideration for such backstop, receive 2.5% earned and payable cash on the funding date. Each holder of an Allowed First Lien Debt Claim will have the opportunity to participate in both the DIP Facility and the New First Out Term Loan Facility. On the Effective Date, the aggregate principal amount outstanding under the DIP Facility will be (i) converted on a dollar-for-dollar basis into New First Out Term Loans or (ii) repaid in full in cash (provided the New First Out Term Loan Commitment is met in full).

14. The Restructuring will leave the Company's business intact and will substantially de-lever the Company by reducing its balance sheet liabilities from approximately $2.1 billion in secured debt to approximately $585 million (inclusive of the Exit AR Facility) in secured debt upon emergence.

Basis for Relief Requested

I. Scheduling a Combined Hearing

15. The Debtors seek a Combined Hearing to consider approval of the Disclosure Statement, the Solicitation Procedures, and the Prepackaged Plan. Bankruptcy Rules 2002 and 3017(a) require twenty-eight (28) days' notice be given by mail to all creditors of the time fixed (i) for filing objections to and the hearing to consider approval of a disclosure statement and (ii) for filing objections to and the hearing to consider confirmation of a plan of reorganization. Section 1128(a) of the Bankruptcy Code provides that "[a]fter notice, the court shall hold a hearing on confirmation of a plan." Local Rule 3017-1 requires the hearing date on a disclosure statement to be at least thirty-five (35) days following service of the notice thereof. In addition, Bankruptcy Rule 3017(c) provides that "[o]n or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation." In addition, under Bankruptcy Rule 3020(b)(1), objections to confirmation of a plan must be filed and served "within a time fixed by the court." Section 105(d)(2)(B)(vi) of the Bankruptcy Code provides that the Court may combine the hearing on approval of a disclosure statement with the hearing on confirmation of the related Prepackaged Plan.

16. The most sensitive and difficult tasks required to effectuate a successful reorganization—the negotiation of consensual agreements with critical creditor constituencies and the ultimate formulation of a chapter 11 plan of reorganization—have already been concluded in

advance of the Petition Date. It is anticipated that the votes tabulated and received from the Voting Classes will be well above the thresholds needed to confirm the Prepackaged Plan. It should be further noted that the votes solely from the Consenting Creditors will be above the thresholds needed to confirm the Prepackaged Plan. A Combined Hearing would promote judicial economy and is in the best interests of the Debtors and their estates and creditors by enabling all parties in interest to proceed with the confirmation process as expeditiously as possible. Additionally, the adverse effects of the chapter 11 filings upon the Debtors' businesses and going concern value will be minimized, and the benefit to all stakeholders maximized, through prompt distributions to holders of Allowed Claims against the Debtors and the reduction of administrative expenses of the estates. Such benefits are the hallmarks of a prepackaged plan of reorganization.

17. Accordingly, the Debtors respectfully request that the Court schedule the Combined Hearing on July 23, 2020, or as soon thereafter as is practicable in light of the Court's calendar. The relief sought herein is necessary to the efficient administration of these chapter 11 cases and will protect the rights of all of the Debtors' creditors and interest holders. The Debtors further request that the Proposed Order provide that the Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing, and that notice of such adjourned date(s) will be available on the electronic case filing docket. In addition to the reasons set forth above, it is appropriate to enter the Proposed Order at this time so that parties in interest may be informed as promptly as possible of the anticipated schedule of events for confirmation of the Prepackaged Plan.

18. The proposed schedule affords creditors and all other parties in interest ample notice of these Chapter 11 Cases and the Combined Hearing. Specifically, the proposed schedule provides a period of thirty-five (35) days between service of the Combined Notice and

the Combined Hearing, during which time parties may evaluate the Prepackaged Plan prior to the proposed Combined Hearing thereon. Consequently, no party in interest will be prejudiced by the requested relief.

II. Approval of Disclosure Statement

19. The Debtors will request at the Combined Hearing that the Court find that the Disclosure Statement contains "adequate information" as defined in section 1125(a) and required by section 1126(b) of the Bankruptcy Code. The Disclosure Statement contains adequate information to permit holders of Claims and Interests to make an informed judgment about the Prepackaged Plan. In addition to a description of the Prepackaged Plan itself, the Disclosure Statement includes disclosures regarding: (i) the operation of the Debtors' businesses; (ii) key events leading to the commencement of these chapter 11 cases; (iii) the Debtors' significant prepetition indebtedness; (iv) the proposed capital structure of the Reorganized Debtors; (v) financial information and a valuation that are relevant to creditors' determinations of whether to accept or reject the Prepackaged Plan; (vi) a liquidation analysis setting forth the estimated return that holders of Claims and Interests would receive in a hypothetical chapter 7 liquidation; (vii) risk factors affecting the Prepackaged Plan; and (viii) federal tax law consequences of the Prepackaged Plan.

20. The Disclosure Statement and the related Solicitation Procedures discussed below comply with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, as well as any applicable nonbankruptcy laws, rules, or regulations governing the adequacy of disclosure in connection with such solicitation. Accordingly, the Debtors will respectfully request that the Court find that the information contained in the Disclosure Statement is "adequate information" as such term is defined in section 1125(a) of the Bankruptcy Code.

III. Approval of Solicitation Procedures and Form of Ballots

21. The Debtors request that the Court approve the solicitation, balloting, tabulation, and related activities undertaken in connection with the Prepackaged Plan (collectively, the "**Solicitation Procedures**") at the Combined Hearing.

A. Classes Presumed to Accept or Deemed to Reject the Prepackaged Plan

22. Section 1126(f) of the Bankruptcy Code provides that

> Notwithstanding any other provision of this section, a class that is not impaired under a plan, and each holder of a claim or interests of such class, are conclusively presumed to have accepted the plan, and solicitation of acceptances with respect to such class from the holders of claims or interests of such class is not required.

11 U.S.C. § 1126(f).

23. The Prepackaged Plan provides that each holder of a Claim or Interest in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) is unimpaired. Pursuant to section 1126(f) of the Bankruptcy Code, the holders of claims or interests in each of the foregoing classes are conclusively presumed to have accepted the Prepackaged Plan and, thus, are not entitled to vote. Accordingly, the Debtors have not solicited votes from such holders.

24. Section 1126(g) of the Bankruptcy Code provides that

> Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to receive or retain any property under the [Prepackaged Plan] on account of such claims or interests.

11 U.S.C. § 1126(g).

25. The Prepackaged Plan provides that each holder of a Claim or Interest in Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests) is impaired and will receive no distribution under the Prepackaged Plan. Pursuant

to section 1126(g) of the Bankruptcy Code, the holders of Claims or Interests in Class 6, Class 8, and Class 9 are conclusively presumed to have rejected the Prepackaged Plan and, thus, are not entitled to vote. Accordingly, the Debtors have not solicited votes from such holders.

26. The Prepackaged Plan provides that each holder of an interest in Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests), on the Effective Date, shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option, in accordance with the Restructuring Transaction Steps. Each holder of an interest in Class 7 and Class 10 are conclusively presumed to have accepted the Plan or deemed to have rejected the Plan and, thus, are not entitled to vote. Accordingly, the Debtors have not solicited votes from such holders.

27. Holders of claims in Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) are impaired and receiving distributions under the Prepackaged Plan, and, thus, entitled to vote.

28. With respect to the specific Classes and Claims against and Interests in the Debtors that were presumed to accept or deemed to reject the Prepackaged Plan, the Solicitation Procedures undertaken by the Debtors and described herein comply with the Bankruptcy Code and should be approved. The Debtors respectfully request that the Court consider approval of the Solicitation Procedures with respect to these Classes at the Combined Hearing.

B. Solicitation of Classes Entitled to Vote to Accept or Reject the Prepackaged Plan

29. Section 1126(b) of the Bankruptcy Code expressly permits a debtor to solicit votes from holders of claims or interests prepetition and without a court-approved disclosure statement if the solicitation complies with applicable non-bankruptcy law—including generally applicable federal and state securities laws or regulations—or, if no such laws exist, the solicited

holders receive "adequate information" within the meaning of section 1125(a) of the Bankruptcy Code.

30. The Solicitation Procedures comply with all applicable non-bankruptcy laws governing the adequacy of disclosures in connection with the solicitation. The Debtors' prepetition Solicitation Procedures are exempt from registration pursuant to Regulation D of the Securities Act of 1933, 15 U.S.C. § 77a-77aa (as amended from time to time, the "**Securities Act**"), and under state "Blue Sky" laws, or any similar rules, regulations, or statutes and/or Section 4(a)(2) of the Securities Act. Specifically, Section 4(a)(2) of the Securities Act creates an exemption from the registration requirements under the Securities Act for transactions not involving a "public offering." Section 4(a)(2) exempts from registration under the Securities Act all "transactions by an issuer not involving any public offering." 15 U.S.C. § 77d(2). The Solicitation is being made prior to the Petition Date only to holders of First Lien Debt Claims and Second Lien Debt Claims who are "accredited investors" within the meaning of Rule 501(a) of Regulation D of the Securities Act and/or who are "Qualified Institutional Buyers" (as defined in rule 144a of the Securities Act), "Institutional Accredited Investors" (within the meaning of Rule 501(a) of Regulation D of the Securities Act), or are non-"US Persons" (as defined in Regulation S of the Securities Act). Accordingly, the Debtors have complied with the requirements of the Securities Act and Section 4(a)(2) and/or Regulation D thereunder, as the prepetition solicitation of acceptances would constitute a private placement of securities. Accordingly, the Debtors' prepetition solicitation complies with the requirements of section 1126(b)(1) of the Bankruptcy Code.

31. Bankruptcy Rule 3018(b) provides, among other things, that prepetition acceptances or rejections of a plan are valid only if the Prepackaged Plan was "transmitted to

substantially all creditors and equity security holders of the same class" and that the time for voting was not "unreasonably short." On the Solicitation Date (i.e., June 14, 2020), the Debtors' proposed Administrative Agent, Kurtzman Carson Consultants LLC ("**KCC**"), served the Disclosure Statement, the Prepackaged Plan, and one or more of the forms of Ballots (collectively with the Disclosure Statement and the Prepackaged Plan, the "**Solicitation Package**") via email on holders of Claims in Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims). The Solicitation Package established June 12, 2020 as the record date (the "**Record Date**") for determining which creditors were entitled to vote on the Prepackaged Plan, and advised recipients that the voting period will end at 5:00 p.m. (prevailing Eastern Time) on June 26, 2020 (the "**Voting Deadline**").

32. The Solicitation Packages were distributed to all holders of Claims in Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) using the contact information for First Lien Lenders and Second Lien Lenders (as of the Record Date) provided to the Debtors by the First Lien Agent and the Second Lien Agent, respectively; however, there were certain First Lien Lenders and Second Lien Lenders of record for which the First Lien Agent and the Second Lien Agent did not have contact information (email or otherwise) readily available. In an effort to ensure that each holder of a First Lien Debt Claim and/or Second Lien Debt Claim receives a Solicitation Package and an opportunity to cast its vote on the Prepackaged Plan, the Debtors instructed the First Lien Agent and the Second Lien Agent to post the memorandums substantially in the forms annexed hereto as **Exhibit C-1** (the "**1L Memorandum**") and **Exhibit C-2** (the "**2L Memorandum**" and, together with the 1L Memorandum, the "**Lender Memorandums**"), respectively, to the public side of each of the Lender data sites maintained by the First Lien Agent and Second Lien Agent. The Lender Memorandums provide instructions for how to obtain a

Solicitation Package from KCC in the event any Lender, who believes it is a holder of a Claim entitled to vote, did not receive a Solicitation Package.

33. The electronic distribution of solicitation packages has been approved in other prepackaged chapter 11 cases in this district. *See*, *e.g.*, *In re Pace Idus., LLC,* No. 20-10927 (MFW) (Bankr. D. Del. April 15, 2020) (D.I. 79); *In re Templar Energy, LLC*, No. 20-11441 (BLS) (Bankr. D. Del. June 2, 2020) (D.I. 63). Moreover, due to COVID-19 and the fact that most, if not all, of these holders of Claims are likely working remotely, the Debtors believe that electronic distribution of the Solicitation Packages (as opposed to distribution via overnight or first class mail) is appropriate and will be the most effective method of distribution in these circumstances.

34. The Prepackaged Plan is the product of several months of hard-fought, arm's length negotiations among the Debtors, the Consenting Creditors, and other key stakeholders. As a result, the Debtors commenced solicitation shortly before commencing these chapter 11 cases and set the Voting Deadline twelve (12) days after the Solicitation Date. The solicitation period will provide a sufficient period within which the holders of Claims entitled to vote may make an informed decision to accept or reject on the Prepackaged Plan. Indeed, as noted above, a significant majority of such holders have been actively involved in negotiating the Prepackaged Plan.

35. Bankruptcy Rule 3017(d) requires that the Debtors use a form of ballot substantially conforming to Official Form No. 314. The Ballots are based on Official Form No. 314, but were modified to address the particular aspects of these chapter 11 cases and to be relevant and appropriate for each Class of Impaired Claims entitled to vote on the Prepackaged Plan. To be counted as votes to accept or reject the Prepackaged Plan, the Ballots must be properly

executed, completed, and delivered to Skillsoft Ballot Processing, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245 so that they are received no later than the Voting Deadline. Alternatively, holders in Classes 3 and 4 may submit their Ballots via KCC's online eBalloting Portal by visiting https://eballot.kccllc.net/skillsoft where such holders will find instructions on how to submit the eBallot. The Debtors submit that the Ballots satisfy the requirement of Rule 3017(d).

36. In consideration of the foregoing, the Solicitation Procedures and Ballots are in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and all applicable nonbankruptcy laws, rules, and regulations. Consequently, the Debtors respectfully requests that this Court approve the Solicitation Procedures and Ballots.

C. Continuation of the Debtors' Prepetition Solicitation After the Petition Date

37. The Debtors distributed the Disclosure Statement and Ballots prior to the Petition Date in accordance with Sections 1125 and 1126 of the Bankruptcy Code. *See* 11 U.S.C. § 1125(g) ("[A]n acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law."). Although the Debtors do not believe that the Disclosure Statement must be conditionally approved, the Debtors, out of an abundance of caution, request that the Court conditionally approve the Disclosure Statement if the Court deems it necessary to do so.

38. Courts in this district have recognized that debtors may "straddle" solicitation by commencing solicitation prior to the petition date and continuing postpetition. *See, e.g., In re Checkout Holding Corp., et al.*, No. 18-12794 (KG) (Bankr. D. Del. Dec. 12, 2018) (D.I. 13) (solicitation commenced prior to the petition date and continued postpetition); *In re Se. Grocers, LLC,* No. 18-10700 (MFW) (Bankr. D. Del. Mar. 29, 2018) (D.I. 131) (same); *In re*

Ascent Res. Marcellus Holdings, LLC, No. 18-10265(LSS) (Bankr. D. Del. Feb. 9, 2018) (D.I. 43) (same); *In re Tidewater Inc.,* No. 17-11132 (BLS) (Bankr. D. Del. May 17, 2017) (D.I. 378) (same); *In re Homer City Generation, L.P.,* No. 17-10086 (MFW) (Bankr. D. Del. Feb. 15, 2017) (D.I. 157) (same). Courts in other districts have also approved "straddled" solicitations. *See, e.g., In re Internap Tech. Sols., Inc*. No. 20-22393 (RDD) *(*Bankr. S.D.N.Y. Mar. 19, 2020*)* (D.I. 42) (approving continued postpetition solicitation commenced prior to petition date); *In re Am. Commmercial Lines Inc.*, No. 20-30982 (MI) (Bankr. S.D. Tex., Feb. 10, 2020) (D.I. 89); *In re Walter Inv. Mmgt. Co.*, No. 17-13446 (JLG) (Bankr. S.D.N.Y. Dec. 7, 2017) (D.I. 77) (same); *In re Atlas Res. Partners, L.P.,* No. 16-12149 (SHL) (Bankr. S.D.N.Y. July 25, 2016) (D.I. 41) (same); *In re Fairway Grp. Holdings Corp.,* No. 16-11241 (MEW) (Bankr. S.D.N.Y. May 5, 2016) (D.I. 51) (same); *In re Southcross Holdings LP,* No. 16-20111 (MI) (Bankr. S.D. Tex. Mar. 29, 2016) (D.I. 75) (same). Furthermore, it is important that these chapter 11 cases proceed as expeditiously as possible.

IV. Deadline and Procedures for Objections to the Disclosure Statement and the Prepackaged Plan

39. Bankruptcy Rule 3017(a) authorizes the Court to fix a time for filing objections to the adequacy of a disclosure statement and Bankruptcy Rule 3020(b)(1) authorizes the Court to fix a time for filing objections to a plan of reorganization. Further, Bankruptcy Rule 2002(b) requires at least twenty-eight (28) days' notice be given by mail to all creditors of the time fixed for filing objections to approval of a disclosure statement and confirmation of a plan of reorganization. Local Rule 3017-1 similarly provides that "[t]he hearing date [to consider approval of the disclosure statement] shall be at least thirty-five (35) days following service of the disclosure statement and the objection deadline shall be at least twenty-eight (28) days from service of the disclosure statement." The Debtors further request that the Proposed Order provide

that the Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing, and that notice of such adjourned date(s) will be available on the electronic case filing docket.

40. The Debtors request that the Court set July 16, 2020 at 4:00 p.m. (prevailing Eastern Time) as the objection deadline (the "**Objection Deadline**"). This date will provide holders of Claims no less than twenty-eight (28) days' notice of the deadline for filing objections to the Disclosure Statement and the Prepackaged Plan while still affording the Debtors and other parties in interest time to file a responsive brief and, if possible, resolve any objections received. The Debtors also request that the Court set the reply deadline for July 21, 2020 at 12:00 p.m. (prevailing Eastern Time).

41. The Debtors further request that the Court direct that any objections to the Disclosure Statement and/or the Prepackaged Plan be: (i) in writing; (ii) filed with the Clerk of Court together with proof of service thereof; (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the estate or property of the Debtors; and (iv) state the legal and factual basis for such objection; and (v) conform to the applicable Bankruptcy Rules and the Local Rules. In addition to being filed with the Clerk of the Court, any such objections should be served upon the following parties in accordance with the Local Rules:

i. Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, NH 03062 (Attn: Greg Porto, Chief People Officer (greg.porto@skillsoft.com));

ii. proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (Gary.Holtzer@weil.com), Robert J. Lemons, Esq. (Robert.Lemons@weil.com), and Katherine Theresa Lewis, Esq. (Katherine.Lewis@weil.com)) and Richard, Layton & Finger, P.A. One Rodney Square, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amanda R. Steele, Esq. (steele@rlf.com) and Chris De Lillo, Esq. (delillo@rlf.com));

iii. counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (Christina.brown@gibsondunn.com));

iv. counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));

v. counsel to Wilmington Savings Fund Society, FSB, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vi. counsel to Wilmington Savings Fund Society, FSB, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vii. counsel to Wilmington Savings Fund Society, FSB, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

viii. Counsel to the AR Facility Agent, Holland & Knight, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq. (Samuel.Pinkston@hklaw.com)); and

ix. the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), 844 N King St., Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.).

V. Form and Manner of Notice of the Combined Hearing and the Commencement of these Chapter 11 Cases

42. The Debtors propose to serve a notice and summary of the Prepackaged Plan (the "**Combined Notice**") within two (2) business days of entry of the Proposed Order substantially in the form annexed as **Exhibit 1** to the Proposed Order, upon all parties in interest. The Combined Notice sets forth (i) the date, time, and place of the Combined Hearing; (ii) instructions for obtaining copies of the Disclosure Statement and Prepackaged Plan; (iii) the Objection Deadline and the procedures for filing objections to the Disclosure Statement and confirmation of the Prepackaged Plan; (iv) procedures in respect of assumption or rejection of

executory contracts and unexpired leases; and (v) notice of commencement of these Chapter 11 Cases.[5]

43. In addition, Bankruptcy Rules 2002(1) permits a court to "order notice by publication if it finds that notice by mail is impracticable or that it is desirable to supplement the notice." The Debtors request that this Court authorize the Debtors, in their discretion, to give supplemental publication notice of the Combined Hearing on a date no less than twenty-eight (28) days prior to the Combined Hearing. The proposed notice schedule, as described above, affords parties in interest ample notice of these proceedings.

44. The Debtors request that the Court determine that they are not required to distribute copies of the Prepackaged Plan or the Disclosure Statement to any holder of a Claim against or Interest in the Debtors within a Class under the Prepackaged Plan that is deemed to accept or is deemed to reject the Prepackaged Plan, unless such party makes a specific request in writing for the same. Bankruptcy Rule 3017(d) provides, in relevant part, as follows:

> If the court orders that the disclosure statement and the [Prepackaged Plan] or a summary of the [Prepackaged Plan] shall not be mailed to any unimpaired class, notice that the class is designated in the [Prepackaged Plan] as unimpaired and notice of the name and address of the person from whom the [Prepackaged Plan] or summary of the [Prepackaged Plan] and disclosure statement may be obtained upon request and at the [Prepackaged Plan] proponent's expense, shall be mailed to members of the unimpaired class together with the notice of the time fixed for filing objections to and the hearing on confirmation.

Fed. R. Bankr. P. 3017(d). The Prepackaged Plan provides that holders of Claims in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) are

[5] The Debtors will also instruct the First Lien Agent and the Second Lien Agent to post the Combined Notice to the public side of the Lender data sites to the extent the Debtors are unable to serve the Combined Notice on any parties by email or first class or overnight mail.

unimpaired. Accordingly, holders of Claims in each of the above mentioned Classes are conclusively presumed to accept the Prepackaged Plan and were not solicited.

45. The Debtors request that the Court apply the same rationale to Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests), all of which are deemed to reject the Prepackaged Plan and waive any requirement that the Debtors send a copy of the Prepackaged Plan and Disclosure Statement to members of such Classes.

46. The Debtors further request that the Court apply the same rationale to Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests), all of which are deemed to accept or reject the Prepackaged Plan and waive any requirement that the Debtors send a copy of the Prepackaged Plan and Disclosure Statement to members of such Classes. In lieu of furnishing each such holder of a Claim against or Interest in the Debtors that is either deemed to accept or is deemed to reject the Prepackaged Plan with a copy of the Prepackaged Plan and the Disclosure Statement, the Debtors propose to send to such holders the Combined Notice, which sets forth the manner in which a copy of the Prepackaged Plan and the Disclosure Statement may be obtained. In addition, the Debtors have made the Disclosure Statement and the Prepackaged Plan available at no cost on KCC's website at www.kccllc.net/skillsoft. The Debtors submit that such notice satisfies the requirements of Bankruptcy Rule 3017(d).

VI. Procedures in Respect of the Assumption or Rejection of Executory Contracts or Unexpired Leases

47. The Prepackaged Plan provides that all Executory Contracts and Unexpired Leases (as defined in the Prepackaged Plan) to which the Debtors are parties shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365

of the Bankruptcy Code, unless such Executory Contract and Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List. The Debtors intend to serve the Combined Notice on all parties to Executory Contracts and Unexpired Leases, reflecting the Debtors' intention to assume the Executory Contracts and Unexpired Leases in connection with the Prepackaged Plan and indicating that the Cure Amount[6] shall be payable by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business. In addition, the Combined Notice provides that in the event of any dispute pertaining to the assumption of an Executory Contract or Unexpired Lease, such dispute will be addressed pursuant to Section 8.2 of the Prepackaged Plan, which provides that the Bankruptcy Court will make a determination on the dispute before the assumption is effective, or the Debtors, subject to certain conditions and consents, may settle any dispute without any further notice to any party or any action, order, or approval of the Bankruptcy Court.

48. The Debtors respectfully submit that the notice of the Debtors' assumption of executory contracts and unexpired leases, as provided in the Combined Notice, and the procedures set forth herein, are appropriate under the circumstances. Pursuant to the procedures proposed by the Debtors, the Debtors will serve the Combined Notice on all applicable counterparties to Executory Contracts and Unexpired Lease at least twenty-eight (28) days before the Objection Deadline.

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[6] Under the Prepackaged Plan, "Cure Amount" means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (i) cure a monetary default by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors and (ii) permit the Debtors to assume such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

VII. Extension and Conditional Waivers of the 341 Meeting and the Filing of Schedules and Statements

49. The Debtors also request that the Court grant an extension of time to file the Schedules and Statements and to waive the requirement to file the Schedules and Statements in the event the Prepackaged Plan is confirmed. Section 521 of the Bankruptcy Code requires a debtor to file schedules of assets and liabilities and statements of financial affairs unless the Court orders otherwise. 11 U.S.C. § 521(a)(1)(A)-(B). These schedules and statements must be filed within 14 days after the petition date unless the bankruptcy court grants an extension of time "on motion for cause shown." Fed. R. Bankr. P. 1007(c). As a matter of course, the Debtors are already entitled to an extension to thirty (30) days from the Petition Date because the Debtors' claims agent is maintaining the consolidated creditor matrix as of the Petition Date, and the Debtors have over 200 creditors. *See* Local Rule 1007-1(b). The Court is authorized to grant the Debtors' further extension "for cause" pursuant to Bankruptcy Rule 1007(c) and Local Rule 1007-1(b).

50. Sufficient cause exists here for such further extension through and including the SOAL/SOFA Deadline. The purposes of filing the Schedules and Statements are to provide notice to creditors and to disclose information about the debtor to holders of claims. Here, however, the benefits of filing the Schedules and Statements are heavily outweighed by their costs. Requiring the Debtors to complete the Schedules and Statements would be time consuming, distracting to the Debtors' advisers and management, and costly to the Debtors' estates, while providing little benefit to most parties in interest in these chapter 11 cases at that point. No party in interest would be prejudiced by the Court granting the Debtors' request for an extension through and including the SOAL/SOFA Deadline because the Debtors have proposed the Prepackaged Plan, under which trade claims and other general unsecured claims will ride through the bankruptcy unimpaired and be enforceable against the Reorganized Debtors. Therefore, the Court

should extend the deadline for filing the Schedules and Statements through and including the SOAL/SOFA Deadline, and waive the requirement altogether if the Prepackaged Plan is confirmed in accordance with the timetable proposed by the Debtors.

51. Section 105(a) of the Bankruptcy Code, which codifies the equitable powers of the bankruptcy court, authorizes the court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." In light of the facts and circumstances surrounding these prepackaged chapter 11 cases, this Court has authority, consistent with section 521(a) of the Bankruptcy Code, to grant the requested relief. *See, e.g., In re Mattress Firm, Inc.,* No. 18-12241 (CSS) (Bankr. D. Del. Oct. 9, 2018) (D.I. 21); *In re Se. Grocers, LLC,* No. 18-10700 (MFW) (Bankr. D. Del. Mar. 29, 2018) (D.I. 131); *In re Remington Outdoor Co.,* No. 18-10684 (BLS) (Bankr. D. Del. Mar. 27, 2018) (D.I. 64); *In re Tidewater Inc.,* No. 17-11132 (BLS) (Bankr. D. Del. May 17, 2017) (D.I. 378); *In re Basic Energy Servs., Inc.,* No. 16-12320 (KJC) (Bankr. D. Del. Oct. 25, 2016); *In re Halcón Res. Corp.,* No. 16-11724 (BLS) (Bankr. D. Del. July 29, 2016) (D.I. 50); *In re RCS Capital Corp.,* No. 16-0223 (MFW) (Bankr. D. Del. Mar. 29, 2016) (D.I. 423).

52. Accordingly, the Debtors respectfully request that the Court extend the time for filing the Schedules and Statements to August 7, 2020, and, if confirmation of the Prepackaged Plan is obtained before that date, waive this requirement.

53. Additionally, the Debtors request that the Court direct the U.S. Trustee not to convene a meeting of the creditors under section 341 of the Bankruptcy Code unless the Prepackaged Plan is not confirmed on or prior to the SOAL/SOFA Deadline. Section 341(a) of the Bankruptcy Code requires the U.S. Trustee to convene and preside over a meeting of creditors (a "**Section 341(a) Meeting**"), and section 341(b) of the Bankruptcy Code authorizes the U.S.

Trustee to convene a meeting of equity security holders (a "**Section 341(b) Meeting**" and collectively with a Section 341(a) Meeting, a "**Section 341 Meeting**"). However, Bankruptcy Code section 341(e) provides that

> Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.

11 U.S.C. § 341(e).

54. The purpose of the Section 341 Meeting is to provide parties in interest with a meaningful opportunity to obtain and examine important information about the debtor. In these chapter 11 cases, however, the solicitation of the Prepackaged Plan was commenced prior to the Petition Date, and the Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. The Debtors intend to proceed expeditiously to confirm the Prepackaged Plan and emerge from chapter 11 as quickly as possible. Therefore, parties are not likely to receive any benefit from a Section 341 Meeting.

55. This Court has granted the requested waiver in other prepackaged chapter 11 cases. *See, e.g., In re Mattress Firm, Inc.,* No. 18-12241 (CSS) (Bankr. D. Del. Oct. 9, 2018) (D.I. 21); *In re Se. Grocers, LLC,* No. 18-10700 (MFW) (Bankr. D. Del. Mar. 29, 2018) (D.I. 131); *In re Remington Outdoor Co.,* No. 18-10684 (BLS) (Bankr. D. Del. Mar. 27, 2018) (D.I. 64); *In re Tidewater Inc.,* No. 17-11132 (BLS) (Bankr. D. Del. May 17, 2017) (D.I. 378); *In re Basic Energy Servs., Inc.,* No. 16-12320 (KJC) (Bankr. D. Del. Oct. 25, 2016); *In re Halcón Res. Corp.,* No. 16-11724 (BLS) (Bankr. D. Del. July 29, 2016) (D.I. 50); *In re RCS Capital Corp.,* No. 16-0223 (MFW) (Bankr. D. Del. Mar. 29, 2016) (D.I. 423).

56. Accordingly, the Debtors respectfully request that the Court direct the U.S. Trustee not to convene a Section 341 Meeting unless the Prepackaged Plan is not confirmed on or prior to the SOAL/SOFA Deadline.

Notice

57. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));; (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel to WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-

1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

RICHARDS, LAYTON & FINGER, P.A.
Mark D. Collins (No. 2981)
Amanda R. Steele (No. 5530)
Christopher M. De Lillo (No. 6355)
One Rodney Square, 920 North King Street
Wilmington, Delaware 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
Email: collins@rlf.com

- and -

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (*pro hac vice* admission pending)
Robert J. Lemons (*pro hac vice* admission pending)
Katherine Theresa Lewis (*pro hac vice* admission pending)
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Proposed Attorneys for Debtors and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Jointly Administered)**

ORDER (I) SCHEDULING COMBINED HEARING TO CONSIDER (A) APPROVAL OF DISCLOSURE STATEMENT, (B) APPROVAL OF SOLICITATION PROCEDURES AND FORMS OF BALLOTS, AND (C) CONFIRMATION OF PREPACKAGED PLAN; (II) ESTABLISHING AN OBJECTION DEADLINE TO OBJECT TO DISCLOSURE STATEMENT AND PLAN; (III) APPROVING THE FORM AND MANNER OF NOTICE OF COMBINED HEARING, OBJECTION DEADLINE, AND NOTICE OF COMMENCEMENT; (IV) CONDITIONALLY WAIVING REQUIREMENT OF FILING STATEMENT OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES; (V) APPROVING NOTICE AND OBJECTION PROCEDURES FOR THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (VI) CONDITIONALLY WAIVING REQUIREMENT TO CONVENE THE SECTION 341 MEETING OF CREDITORS; AND (VII) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105(a), 341, 521(a), 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1007, 2002, 3017, AND 3018

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order (i) scheduling a combined hearing

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

(the "**Combined Hearing**") to consider (a) approval of the Disclosure Statement and (b) confirmation of the Prepackaged Plan; (ii) establishing an objection deadline to object to the adequacy of the Disclosure Statement or confirmation of the Prepackaged Plan; (iii) approving the Solicitation Procedures; (iv) approving the form and manner of the notice of the Combined Hearing, the Objection Deadline, and notice of commencement; (v) approving the notice and objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan; (vi) extending the deadline for the Debtors to file schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") through and including August 7, 2020 (the "**SOAL/SOFA Deadline**"), and conditionally waiving the requirement that the Debtors file the Schedules and Statements if confirmation of the Prepackaged Plan is obtained; (vii) conditionally waiving the requirement to convene the Section 341 Meeting; and (viii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their

estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The confirmation schedule set forth in the Motion is hereby approved, except as may be modified below.

3. A hearing to consider compliance with disclosure and solicitation requirements and confirmation of the Debtors' Prepackaged Plan (the "**Combined Hearing**") is hereby scheduled to be held before this Court on _____ ____, 2020 at __:__ (prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the electronic case filing docket.

4. Objections to the Disclosure Statement and/or the Prepackaged Plan shall be: (i) in writing; (ii) filed with the Clerk of Court together with proof of service thereof; (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the estate or property of the Debtors, and (iv) state the legal and factual basis for such objection; and (v) conform to the applicable Bankruptcy Rules and the Local Rules, by no later than **4:00 p.m. (prevailing Eastern Time) on ___, 2020** (the "**Objection Deadline**"). In addition to being filed with the Clerk of the Court, any such Objections should be served upon the following parties in accordance with the Local Rules:

i. Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, NH 03062 (Attn: Greg Porto, Chief People Officer (Greg.Porto@skillsoft.com);

ii. proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq.

(Gary.Holtzer@weil.com), Robert J. Lemons, Esq. (Robert.Lemons@weil.com), and Katherine Theresa Lewis, Esq. (Katherine.Lewis@weil.com)) and Richard, Layton & Finger, P.A. One Rodney Square, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amanda R. Steele, Esq. (steele@rlf.com) and Chris De Lillo, Esq. (delillo@rlf.com));

iii. counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina Brown, Esq. (Christina.brown@gibsondunn.com));

iv. counsel to the Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));

v. counsel to Wilmington Savings Fund Society, FSB, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vi. counsel to Wilmington Savings Fund Society, FSB, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vii. counsel to Wilmington Savings Fund Society, FSB, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

viii. Counsel to the AR Facility Agent, Holland & Knight, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq. (Samuel.Pinkston@hklaw.com)); and

ix. the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), 844 N King St., Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.).

5. Any objection not timely filed and served in the manner set forth in this Order may, in the Court's discretion, not be considered and may be overruled.

6. Notice of the Combined Hearing as proposed in the Motion and the form of notice annexed hereto as **Exhibit 1** shall be deemed good and sufficient notice of the Combined

Hearing and no further notice need be given; *provided, however,* that any provision of Bankruptcy Rule 3017(d) requiring the Debtors to distribute the Disclosure Statement and the Prepackaged Plan to parties not entitled to vote, whether because they are unimpaired or because they are deemed to reject the Prepackaged Plan, or any parties in interest other than as prescribed in this Order, shall be waived; *provided further, however,* the Disclosure Statement and Prepackaged Plan shall remain posted in PDF format to the following page at www.kccllc.net/skillsoft and shall be provided in either electronic or paper form to any parties in interest upon written request to the Debtors. The Debtors shall also serve a copy of the Combined Notice on all known creditors, interest holders, and interested parties.

7. Service of the Combined Notice as set forth in the Motion and herein is sufficient notice of the Petition Date, the Combined Hearing, the Objection Deadline, the procedures for objecting to the adequacy of the Disclosure Statement and to confirmation of the Prepackaged Plan, and the procedures for objecting to the Debtors' assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan.

8. To the extent that section 1125(b) of the Bankruptcy Code requires the Debtors' prepetition solicitation of acceptances for the Prepackaged Plan to be pursuant to an approved disclosure statement in order to continue on a postpetition basis, the Court conditionally approves the Disclosure Statement having adequate information as required by section 1125 of the Bankruptcy Code without prejudice to any party in interest objecting to the Disclosure Statement at the Combined Hearing.

9. The Debtors, in their discretion, are authorized pursuant to Bankruptcy Rule 2002(l) to give supplemental publication notice of the Combined Hearing, or shortened

version thereof, by publication in a newspaper or newspapers designated by the Debtors in their sole discretion and on a date no less than twenty-eight (28) days prior to the Combined Hearing.

10. Any objection to the assumption or rejection of executory contracts and unexpired leases must (a) be in writing; (b) conform to the applicable Bankruptcy Rules and Local Rules, (c) set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof; (d) be filed with the Bankruptcy Court by the Objection Deadline, together with proof of service, and (e) served upon the Notice Parties.

11. The objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan are approved, as set forth in the Combined Notice.

12. The time within which the Debtors shall file the Schedules and Statements is extended through and including August 7, 2020 without prejudice to the Debtors' right to seek further extensions of the time within which to file the Schedules and Statements or to seek additional relief from this Court regarding the filing of, or waiver of the requirement to file, the Schedules and Statements.

13. The requirement that the Debtors file the Schedules and Statements is permanently waived effective upon the date of confirmation of the Prepackaged Plan, provided confirmation occurs on or before the SOAL/SOFA Deadline.

14. The U.S. Trustee shall not be required to schedule a meeting of creditors and equity holders pursuant to Bankruptcy Code section 341(a) and (b), unless the Prepackaged Plan is not confirmed in these chapter 11 cases on or before the SOAL/SOFA Deadline.

15. Notwithstanding anything to the contrary herein or in the confirmation schedule set forth in the Motion, any holder of Claims in Class 3 and/or Class 4 that is a Consenting

Creditor may revoke its vote at any time following the termination of the Restructuring Support Agreement with respect to such Consenting Creditor. Upon such revocation, such Consenting Creditor shall be entitled to submit a replacement vote so as to be received by KCC no later than 5:00 p.m. (prevailing Eastern Time) on the date that is seven (7) days following such revocation.

16. The Debtors are authorized to take all steps necessary or appropriate to carry out the relief granted pursuant to this Order in accordance with the Motion.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Combined Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

NOTICE OF (I) COMMENCEMENT OF CHAPTER 11 CASES, (II) COMBINED HEARING ON DISCLOSURE STATEMENT, CONFIRMATION OF JOINT PREPACKAGED CHAPTER 11 PLAN, AND RELATED MATTERS, AND (III) OBJECTION DEADLINES, AND SUMMARY OF DEBTORS' JOINT PREPACKAGED CHAPTER 11 PLAN

NOTICE IS HEREBY GIVEN as follows:

1. On June 14, 2020 (the "**Petition Date**") Skillsoft Corp. and its affiliated debtors, as debtors and debtors in possession (collectively, the "**Debtors**"), each commenced a case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

2. On the Petition Date, the Debtors filed a "prepackaged" plan of reorganization (the "**Prepackaged Plan**") and a proposed disclosure statement (the "**Disclosure Statement**") pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Copies of the Prepackaged Plan and the Disclosure Statement may be obtained free of charge by visiting the website maintained by the Debtors' voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), at www.kccllc.net/skillsoft. Copies of the Prepackaged Plan and Disclosure Statement may also be obtained by calling the Voting Agent at 877-709-4752 (domestic hotline) 424-236-7232 (international hotline) or emailing the Voting Agent at skillsoftinfo@kccllc.com.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Information Regarding Prepackaged Plan

3. On June 14, 2020, the Debtors commenced solicitation of votes to accept the Prepackaged Plan from the holders of Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) of record as of June 12, 2020. Only holders of Claims in Class 3 and Class 4 are entitled to vote to accept or reject the Prepackaged Plan. All other classes of claims were either deemed to accept or reject the Prepackaged Plan and, therefore, are not entitled to vote. **The deadline for the submission of votes to accept or reject the Prepackaged Plan is June 26, 2020 at 5:00 p.m. (Prevailing Eastern Time).**

4. The Debtors are proposing a restructuring that, pursuant to the Prepackaged Plan, will provide substantial benefits to the Debtors and all of their stakeholders. Upon its full implementation, the Prepackaged Plan will reduce the Debtors' balance sheet liabilities from approximately $2.1 billion in prepetition funded debt down to approximately $585 million in funded debt. In addition to significantly de-levering the Debtors' balance sheet, the Debtors will emerge from chapter 11 with access to a new working capital facility that will provide sufficient liquidity to allow the Debtors to continue funding business operations. The restructuring will allow the Debtors' management team to focus on operational performance and value creation, execute on growth initiatives, and continue to serve as an international leader and innovator in the corporate learning market.

5. A combined hearing to consider the adequacy of the Disclosure Statement and any objections thereto and to consider confirmation of the Prepackaged Plan and any objections thereto will be held before the Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801, **on July 23, 2020 at [TIME] (Prevailing Eastern Time)** (the "**Combined Hearing**"). The Combined Hearing may be adjourned from time to time without further notice other than by filing a notice of the Bankruptcy Court's docket indicating such adjournment and/or announcement of the adjournment date or dates at the Combined Hearing. The adjourned dates will be available on the electronic case filing docket and the Voting Agent's website www.kccllc.net/skillsoft.

6. The deadline for filing objections to the adequacy of the Disclosure Statement or confirmation of the Plan is **July 16, 2020, at 5:00 p.m. (Prevailing Eastern Time)** (the "**Objection Deadline**"). Any objections to the Disclosure Statement and/or the Prepackaged Plan must be: (i) in writing, (ii) filed with the Clerk of the Court together with proof of service thereof, (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the Debtors' estates or property of the Debtors; and (iv) state the legal and factual basis for such objection, and (v) conform to the applicable Bankruptcy Rules and the Local Rules.

7. In addition to being filed with the Clerk of the Court, any such objections should be served upon the following parties in accordance with the Local Rules:

Debtors
Skillsoft Corporation
300 Innovative Way, Suite 201
Nashua, New Hampshire, 03062
Telephone: (866) 757-73177
Attn: Greg Porto
Email: greg.porto@skillsoft.com

Office of the U.S. Trustee
Office of the U.S. Trustee for
the District of Delaware
844 King Street
Suite 2207, Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy, Esq.
Email: jane.m.leamy@usdoj.gov

Proposed Counsel to the Debtors
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Gary T. Holtzer, Esq.
Robert J. Lemons, Esq.
Katherine Theresa Lewis, Esq.
Email: gary.holtzer@weil.com
robert.lemons@weil.com
katherine.lewis@weil.com

Proposed Co-Counsel to the Debtors
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Amanda R. Steele, Esq.
Christopher M. De Lillo, Esq.
Email: collins@rlf.com
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delillo@rlf.com

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Email: bateman@sewkis.com

slevin@milbank.com

UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AT THE COMBINED HEARING.

Notice of Assumption of Executory Contracts and Unexpired Leases of Debtors and Related Procedures

8. Please take notice that, in accordance with Section 8.1 of the Plan and sections 365 and 1123 of the Bankruptcy Code, all Executory Contracts and Unexpired Leases shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code (such contracts and leases, the "**Assumed Contracts**"), unless such Executory Contract and Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List.

9. Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default (a "**Cure Amount**") shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtors or Reorganized Debtors, as applicable, upon assumption thereof. If you believe that any Cure Amounts are due by the Debtors in connection with the assumption of your contract or unexpired lease, you should assert such Cure Amounts against the Debtors in the ordinary course of business.

10. To the extent that you object to the assumption of an Assumed Contract on any basis, including the Debtors' satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code to provide adequate assurance of future performance under an Assumed Contract, you must (a) file with the Bankruptcy Court a written objection (the "**Objection**") no later than the Objection Deadline that complies with the Bankruptcy Rules and the Local Rules and sets forth (i) the basis for such objection and specific grounds therefor, and (ii) the name and contact information of the person authorized to resolve such objection, and (b) serve the same on the parties listed above.

11. If no Objection is timely filed with respect to an Assumed Contract, (a) you shall be deemed to have assented to (i) the assumption of such Assumed Contract, (ii) the effective date of such assumption, and (iii) the satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code of the Debtors to provide adequate assurance of future performance under such Assumed Contract, and (b) you shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or the adequate assurance of future performance contemplated herein.

12. The Debtors request that, before filing an Objection, you contact the Debtors prior to the Objection Deadline to attempt to resolve such dispute consensually. The

Debtors' contact for such matters is Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), Robert J. Lemons, Esq. (robert.lemons@weil.com), and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and Richards, Layton & Finger, P.A., 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amada R. Steele, Esq. (steele@rlf.com) and Christopher M. De Lillo, Esq. (delillo@rlf.com)). If such dispute cannot be resolved consensually prior to the Objection Deadline (as the same may be extended by agreement of the Debtors), you must file and serve an Objection as set forth herein to preserve your right to object.

13. If a timely Objection is filed and served in accordance with this notice pertaining to assumption of an Assumed Contract, and cannot be otherwise resolved by the parties pursuant to Section 8.2 of the Prepackaged Plan, the Bankruptcy Court may hear such Objection at a date set by the Bankruptcy Court.

Summary of the Prepackaged Plan

14. Solicitation of votes on the Prepackaged Plan commenced prior to the Petition Date. The following chart summarizes the treatment provided by the Prepackaged Plan to each class of Claims and Interests:

Class	Claim or Equity Interest	Treatment	Impaired or Unimpaired	Entitlement to Vote on the Plan	Approx. Percentage Recovery[2]
Class 1	Other Priority Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) such other treatment sufficient to render such holder's Allowed Other Priority Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 2	Other Secured Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%

[2] The values set forth under Approximate Percentage Recovery are based on the midpoint of the range of reorganized equity value of the Debtors as described in the Valuation Analysis set forth in this Disclosure Statement.

		treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) reinstatement or such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.			
Class 3	First Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed First Lien Debt Claims, the holders of Allowed First Lien Debt Claims (or the permitted assigns or designees of such holders) shall receive their Pro Rata share of: (i) New Second Out Term Loans; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans.	Impaired	Yes	Estimated Percentage Recovery: 71%
Class 4	Second Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed Second Lien Debt Claims, the holders of Allowed Second Lien Debt Claims shall receive their Pro Rata share of: (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants.	Impaired	Yes	Estimated Percentage Recovery: 3%[3]
Class 5	General Unsecured Claims	The legal, equitable, and contractual rights of the holders of Allowed General Unsecured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on and after the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall continue to pay or dispute each General Unsecured Claim in the ordinary course of business as if the Chapter 11 Cases had never been commenced.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 6	Subordinated Claims	On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 7	Intercompany Claims	On the Effective Date, all Intercompany Claims shall be reinstated, cancelled, reduced, transferred, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

[3] Estimated percentage recovery excludes value attributable to warrants.

Class 8	Existing Parent Equity Interests	On the Effective Date, the entire share capital of Parent shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps. Holders of Existing Parent Equity Interests shall receive no distribution under this Plan.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 9	Other Equity Interests	On the Effective Date, Other Equity Interests shall be cancelled, released, and extinguished and shall be of no further force and effect.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 10	Intercompany Interests	On the Effective Date, all Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

Non-Voting Status of Holders of Certain Claims and Interests

15. As set forth above, certain holders of Claims and Interests are **not** entitled to vote on the Prepackaged Plan. As a result, such parties did not receive any ballots and other related solicitation materials to vote on the Prepackaged Plan. The holders of Claims and Interests in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) are unimpaired under the Prepackaged Plan, and therefore, are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) of the Bankruptcy Code. The holders of Claims and Interests in Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests) are not entitled to a recovery under the Prepackaged Plan, and therefore, are deemed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. The holders of Claims and Interests in Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests) are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) or presumed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. Finally, parties to certain of the Debtors' executory contracts and unexpired leases may not have Claims pending the disposition of their contracts or leases by assumption or rejection under the Prepackaged Plan. Such parties nevertheless are being provided with this Combined Hearing Notice, and will be separately notified of the projected disposition of their contracts and/or lease. Upon request, the Voting Agent will provide you, free of charge, with copies of the Prepackaged Plan, the Disclosure Statement, and the Combined Hearing Notice.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS IN THE PREPACKAGED PLAN

PLEASE BE ADVISED THAT THE PREPACKAGED PLAN CONTAINS CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, INCLUDING:

Section 10.5 ***Injunction Against Interference with Plan***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees,

agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

Section 10.6 *Plan Injunction*

(a) Except as otherwise provided in the Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan and the Plan Documents.

(b) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth in Section 10.6 of the Plan.

Section 10.7 *Releases*

(a) **Releases by Debtors. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities**

whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

Section 10.8 ***Exculpation***

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, this Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Section 10.9 ***Injunction Related to Releases and Exculpation.***

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to the Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in the Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons

in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such.

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

Section 341(a) Meeting

16. A meeting of creditors pursuant to section 341(a) of the Bankruptcy Code (the "**Section 341(a) Meeting**") has been deferred. **The Section 341(a) Meeting will not be convened if the Plan is confirmed by August 7, 2020.** If the Section 341(a) Meeting will be convened, the Debtors will file, serve on the parties on whom it served this notice and any other parties entitled to notice pursuant to the Bankruptcy Rules, and post on the website at www.kccllc.net/skillsoft not less than twenty-one (21) days before the date scheduled for such meeting, a notice of, among other things, the date, time, and place of the Section 341(a) Meeting. The meeting may be adjourned or continued from time to time by notice at the meeting, without further notice to creditors.

Dated: Wilmington, Delaware
_____, 2020

BY ORDER OF THE COURT

WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer (pro hac vice admission pending)
Robert J. Lemons (pro hac vice admission pending)
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Proposed Counsel for the Debtors and Debtors in Possession

RICHARDS, LAYTON & FINGER, P.A.
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Telephone: (302) 651-7700
Facsimile: (302) 651-7701

Exhibit B-1

Form of Ballot for Class 3 (First Lien Debt Claims)

IMPORTANT: *NO CHAPTER 11 CASES HAVE BEEN COMMENCED AS OF THE DATE OF DISTRIBUTION OF THIS BALLOT. THE DEBTORS (AS DEFINED HEREIN) INTEND TO FILE CHAPTER 11 CASES AND SEEK CONFIRMATION OF THE PREPACKAGED PLAN OF REORGANIZATION BY THE BANKRUPTCY COURT SHORTLY THEREAFTER AS DESCRIBED IN GREATER DETAIL IN THE ACCOMPANYING DISCLOSURE STATEMENT. THIS BALLOT IS A COMPONENT OF THE PREPETITION SOLICITATION OF YOUR VOTE ON THE PREPACKAGED PLAN OF REORGANIZATION DESCRIBED BELOW. THE VOTING DEADLINE IS 5:00 P.M. PREVAILING EASTERN TIME ON JUNE 26, 2020.*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

BALLOT FOR ACCEPTING OR REJECTING
THE JOINT PREPACKAGED CHAPTER 11 PLAN OF
SKILLSOFT CORPORATION AND ITS AFFILIATED DEBTORS

BALLOT FOR: CLASS 3 – FIRST LIEN DEBT CLAIMS

HOLDERS OF CLASS 3 FIRST LIEN DEBT CLAIMS SHOULD READ THIS ENTIRE BALLOT BEFORE COMPLETING. PLEASE SUBMIT YOUR VOTE (WHETHER THROUGH "eBALLOT" OR "PAPER BALLOT" AS DEFINED BELOW) SO THAT YOUR VOTE IS ACTUALLY RECEIVED BY THE VOTING AGENT (AS DEFINED BELOW) ON OR BEFORE JUNE 26, 2020 AT 5:00 P.M. (PREVAILING EASTERN TIME) (THE "VOTING DEADLINE"), UNLESS EXTENDED BY THE DEBTORS.

Skillsoft Corporation and certain of its affiliates (the "**Debtors**") have provided you this ballot (the "**Ballot**") with instructions on how to solicit your vote to accept or reject the *Joint*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors (as amended, modified or supplemented from time to time, the "**Plan**").[2]

Please cast your vote to accept or reject the Plan if you were, as of June 12, 2020 (the "**Voting Record Date**"), a holder of a claim (a "**Holder**") against the Debtors arising under that certain First Lien Credit Agreement, dated as of April 28, 2014 (as amended, modified, or otherwise supplemented from time to time), by and among certain of the Debtors, as borrower and/or obligor, the Lenders thereunder and as defined therein, the First Lien Agent, and the other parties thereto, as in effect immediately prior to the Effective Date.

As of the date of distribution of this Ballot, only Accredited Investors[3] (as such term is defined in Rule 501 of the Securities Act of 1933, as amended (the "**Securities Act**")) are entitled to vote to accept or reject the Plan and you should disregard this Ballot if you are not an Accredited Investor.

The Plan is attached as **Exhibit A** to the *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Disclosure Statement**"), which accompanies this Ballot. The Disclosure Statement provides information to assist you in deciding whether to accept or reject the Plan. If you do not have a copy of the Disclosure Statement, you may obtain a copy from the Debtors' solicitation and voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), by calling 877-709-4752 (Domestic) or 424-236-7232 (International), or sending an electronic mail message to skillsoftinfo@kccllc.com with "Skillsoft" in the subject line and requesting that a copy be provided to you. You should review the Disclosure Statement and the Plan in their entirety before you vote. You may wish to seek independent legal advice concerning the Plan and your classification and treatment under the Plan.

IMPORTANT NOTICE REGARDING TREATMENT FOR CLASS 3

As described in more detail in the Disclosure Statement and Plan, if the Plan is confirmed and the Effective Date occurs, on the Effective Date, or as soon as reasonably practicable thereafter, each holder of an Allowed First Lien Debt Claim shall receive, in full and final satisfaction of such Claim, such holder's *pro rata* share of (i) New Second Out Term Loans; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans), in each case based on the amount of such holder's First Lien Debt Claim as of the Petition Date.

PLEASE READ THE DISCLOSURE STATEMENT AND PLAN FOR MORE DETAILS.

The Debtors intend to commence voluntary cases under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Plan can thereafter be confirmed by the United States

[2] Capitalized terms used but not otherwise herein defined shall have the meanings ascribed to such terms in the Plan.

[3] The definition of "Accredited Investor" is attached hereto as **Exhibit A**.

Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") and thereby made binding on you if: (i) it is accepted by the holders of at least two-thirds of the aggregate principal amount and more than one-half in number of the Claims voted in each Impaired Class of Claims and (ii) the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court may nonetheless confirm the Plan if it finds that the Plan (y) provides fair and equitable treatment to, and does not unfairly discriminate against, the Class or Classes rejecting the Plan and (z) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or if you vote to reject the Plan. To have your vote counted, you must complete, sign, and return this Ballot to the Voting Agent by the Voting Deadline.

Your receipt of this Ballot does not signify that your Claim(s) has been or will be Allowed. This Ballot is solely for purposes of voting to accept or reject the Plan and not for the purpose of allowance or disallowance of or distribution on account of Class 3 First Lien Debt Claims. You must provide all of the information requested by this Ballot. Failure to do so may result in the disqualification of your vote.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS IN PLAN

IF YOU VOTE TO ACCEPT THE PLAN, YOU SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE, INJUNCTION, AND EXCULPATION PROVISIONS SET FORTH IN SECTIONS 10.5, 10.6, 10.7, 10.8 AND 10.9 OF THE PLAN. IF YOU DO NOT CHECK THE OPT-OUT BOX IN ITEM 3 BELOW AND YOU (I) DO NOT VOTE EITHER TO ACCEPT OR REJECT THE PLAN OR (II) VOTE TO REJECT THE PLAN, YOU SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE PROVISIONS SET FORTH IN SECTION 10.7 OF THE PLAN.

10.5 Injunction against Interference with Plan.

Upon entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

10.6 Plan Injunction.

(a) Except as otherwise provided in this Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests, and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property

of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan and the Plan Documents.

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by this Plan, including the injunctions set forth in section 0 of this Plan.

10.7 Releases.

(a) **Releases by Debtors. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.**

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

10.8 Exculpation.

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties

shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

10.9 Injunction Related to Releases and Exculpation.

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to this Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in this Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such).

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its

current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

PLEASE READ THE ATTACHED VOTING INFORMATION AND INSTRUCTIONS BEFORE COMPLETING THIS BALLOT

PLEASE COMPLETE ITEMS 1, 2, 3 (IF APPLICABLE), AND 4. IF THIS BALLOT HAS NOT BEEN PROPERLY SIGNED IN THE SPACE PROVIDED, YOUR VOTE MAY NOT BE VALID OR COUNTED AS HAVING BEEN CAST.

Item 1. Principal Amount of Claims. The undersigned hereby certifies that, as of the Voting Record Date, the undersigned was the holder (or authorized signatory of such a holder) of First Lien Debt Claims in the principal amount set forth below.

$

Item 2. Votes on the Plan. Please vote either to accept or to reject the Plan with respect to your Claims below. Any Ballot not marked either to accept or reject the Plan, or marked both to accept and reject the Plan, shall not be counted in determining acceptance or rejection of the Plan.

Prior to voting on the Plan, please note the following:

If you vote to accept the Plan, you shall be deemed to have consented to the release, injunction, and exculpation provisions set forth in Sections 10.5, 10.6, 10.7, 10.8, and 10.9 of the Plan.

If you (i) do not vote either to accept or reject the Plan or (ii) vote to reject the Plan and, in each case, do not check the box in Item 3 below, you shall be deemed to have consented to the release provisions set forth in Section 10.7(b) of the Plan.

The Disclosure Statement and the Plan must be referenced for a complete description of the release, injunction, and exculpation provisions.

The undersigned holder of a Class 3 First Lien Debt Claim votes to (check one box):

☐ **Accept** the Plan ☐ **Reject** the Plan

Item 3. Optional Opt Out Release Election. If you voted to reject the Plan in Item 2 above, or if you are abstaining from voting to accept or reject the Plan, check this box if you elect not to grant the releases contained in Section 10.7(b) of the Plan. Election to withhold consent is at your option. If you voted to accept the Plan in Item 2 above, you may not complete this Item 3, and if you complete this Item 3, your "opt out" election will be ineffective. If you submit a rejecting Ballot, or if you abstain from submitting a Ballot, and in each case, you do not check the box below, you will be deemed to consent to the releases contained in Section 10.7(b) of the Plan to

the fullest extent permitted by applicable law. The Holder of the Class 3 First Lien Debt Claim set forth in Item 1 elects to:

☐ **OPT OUT** of the releases contained in Section 10.7(b) of the Plan.

Item 4. Acknowledgments. By signing this Ballot, the Holder (or authorized signatory of such Holder) acknowledges receipt of the Plan, the Disclosure Statement, and the other applicable solicitation materials, and certifies that (i) it has the power and authority to vote to accept or reject the Plan, (ii) it was the Holder (or is entitled to vote on behalf of such Holder) of the First Lien Debt Claims described in Item 1 as of the Voting Record Date, (iii) it is an "accredited investor" within the meaning of Rule 501(a) under Regulation D of the Securities Act of 1933, as amended, and (iv) all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder, shall be binding on the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy, and legal representatives of the undersigned, and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

_____
Name of Holder

_____
Signature

_____
If by Authorized Agent, Name and Title

_____
Name of Institution

_____
Street Address

_____
City, State, Zip Code

_____
Telephone Number

_____
Date Completed

_____
E-Mail Address

VOTING INFORMATION AND INSTRUCTIONS FOR COMPLETING THE BALLOT

1. Ballots received after the Voting Deadline (if the Voting Deadline has not been extended) may not, at the Debtors' discretion, be counted. **The Voting Agent will tabulate all properly completed Ballots received on or before the Voting Deadline.**

2. Submit your vote by either

   (a) Logging on to the online, electronic balloting platform maintained by KCC at www.kccllc.net/skillsoft under the "eBallot" section ("**eBallot**"), clicking on the "Submit eBallot" link, and following the instructions set forth on the website[1], or

   (b) Completing, executing, and submitting this paper Ballot ("**Paper Ballot**") to KCC via first class mail, overnight mail, or personal delivery to Skillsoft Ballot Processing, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245.

3. If a Holder submits its vote through eBallot, it does not need to submit a Paper Ballot.

4. Any Ballot that is illegible, contains insufficient information to identify the Holder, does not contain an original signature (with the understanding that a creditor's electronic signature submitted through eBallot will be deemed an "original signature" and to be immediately legally valid and effective), or is unsigned, will not be counted. Ballots may not be submitted to the Voting Agent by facsimile or e-mail. If neither the "accept" nor "reject" box is checked in Item 2, both boxes are checked in Item 2, or the Ballot is otherwise not properly completed, executed, or timely returned, then the Ballot shall not be counted in determining acceptance or rejection of the Plan.

5. You must vote all your Class 3 First Lien Debt Claims under the Plan either to accept or reject the Plan. Accordingly, if you return more than one Ballot voting different First Lien Debt Claims under the Plan, the Ballots are not voted in the same manner, and you do not correct this before the Voting Deadline, those Ballots will not be counted. An otherwise properly executed Ballot that attempts to partially accept and partially reject the Plan likewise will not be counted. Further, to the extent you vote multiple Claims within Class 3 consistently, the Debtors may, in their discretion, aggregate those votes for numerosity purposes.

6. If you hold a Claim in more than one Class entitled to vote, you may receive more than one Ballot for each such Claim. Each Ballot votes only your Claims indicated on that Ballot. Accordingly, you must complete and return each Ballot you receive to vote multiple Claims.

7. If you voted to reject the Plan or if you are abstaining from voting to accept or reject the Plan, and in each case elect not to grant the releases contained in Section 10.7(b) of the

[1] The encrypted ballot data and audit trail created by such electronic eBallot submission shall become part of the record of any vote submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective.

Plan, you must check the box in Item 3. Election to withhold consent is at your option. If you submit a rejecting Ballot, or if you abstain from submitting a Ballot, and in each case, you do not check the box in Item 3, you will be deemed to consent to the releases set forth in Section 10.7(b) of the Plan.

8. If you vote to accept the Plan by checking the "accept" box in Item 2, but you also check the box in Item 3, your election not to grant the releases will not be counted, as your vote in favor of the Plan shall be deemed a consent to the releases set forth in Section 10.7(b) of the Plan.

9. The Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of Claims.

10. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.

11. If you cast more than one Ballot voting the same Claims prior to the Voting Deadline, the latest received, properly executed Ballot submitted to the Voting Agent will supersede any prior Ballot.

12. If (i) the Debtors revoke or withdraw the Plan, or (ii) the Confirmation Order is not entered, or (iii) consummation of the Plan does not occur, this Ballot shall automatically be null and void and deemed withdrawn without any requirement of affirmative action by or notice to you.

13. There may be changes made to the Plan that do not cause material adverse effects on an accepting Class. If such non-material changes are made to the Plan, the Debtors will not resolicit votes for acceptance or rejection of the Plan.

14. Any votes rejected as non-conforming to the aforementioned provisions will be set forth on an exhibit to KCC's voting certification.

15. NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT, ANY SUPPLEMENTAL INFORMATION PROVIDED BY THE DEBTORS, OR OTHER MATERIALS AUTHORIZED BY THE BANKRUPTCY COURT.

16. PLEASE RETURN YOUR BALLOT PROMPTLY.

17. IF YOU HAVE RECEIVED A DAMAGED BALLOT OR HAVE LOST YOUR BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE VOTING AGENT BY CALLING 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR BY SENDING AN ELECTRONIC MAIL MESSAGE TO SKILLSOFTINFO@KCCLLC.COM WITH "SKILLSOFT" IN THE SUBJECT LINE. PLEASE DO NOT DIRECT ANY INQUIRIES TO THE BANKRUPTCY COURT.

18. THE VOTING AGENT IS NOT AUTHORIZED TO, AND WILL NOT, PROVIDE LEGAL ADVICE.

19. ALL BALLOTS MUST BE FULLY EXECUTED TO BE COUNTED. IF YOU ARE COMPLETING THIS BALLOT ON BEHALF OF ANOTHER PERSON OR ENTITY, INDICATE YOUR RELATIONSHIP WITH SUCH PERSON OR ENTITY AND THE CAPACITY IN WHICH YOU ARE SIGNING. YOU MAY BE REQUIRED TO PROVIDE ADDITIONAL INFORMATION OR DOCUMENTATION WITH RESPECT TO SUCH RELATIONSHIP.

eBallot Voting Instructions

To properly submit your vote electronically, you must electronically complete, sign, and return this customized Ballot by utilizing the eballot platform on KCC's website by visiting www.kccllc.net/skillsoft, clicking on the "Submit eBallot" link and following the instructions set forth on the website. Your Ballot must be received by KCC no later than 5:00 P.M. (Prevailing Eastern Time) on June 26, 2020, the Voting Deadline, unless such time is extended by the Debtors. HOLDERS ARE STRONGLY ENCOURAGED TO SUBMIT THEIR BALLOTS VIA THE eBALLOT PLATFORM. KCC's "eBallot" platform is the sole manner in which ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email, or other means of electronic transmission will not be counted.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique eBallot ID#: _____

PIN #: _____

Each eBallot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an eBallot for each eBallot ID# you receive, as applicable.

If you are unable to use the eBallot platform or need assistance in completing and submitting your vote, please contact KCC:

VIA PHONE AT 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR EMAIL AT skillsoftinfo@kccllc.com.

Holders who cast a Ballot using KCC's "eBallot" platform should NOT also submit a Paper Ballot.

Paper Ballot Voting Instructions

To properly submit your vote by Paper Ballot, you must complete, sign, and return this customized Paper Ballot via (i) the enclosed, pre-paid envelope, (ii) first class mail, (iii) overnight courier, or

(iv) hand delivery, so that the Paper Ballot is **actually received** by the Voting Agent no later than the Voting Deadline at the following address:

SKILLSOFT BALLOT PROCESSING CENTER C/O KCC
222 N. PACIFIC COAST HIGHWAY
SUITE 300
EL SEGUNDO, CA 90245
Email: skillsoftinfo@kccllc.com

THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN IS JUNE 26, 2020 AT 5:00 P.M. (PREVAILING EASTERN TIME).

Exhibit A

"Accredited Investor"

"Accredited Investor" is defined in Rule 501 of the Securities Act of 1933 as:

(a) any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(1) any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(2) any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(3) any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;

(4) any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(5) any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds $1,000,000.

(i) Except as provided in paragraph (a)(5)(ii) of this section, for purposes of calculating net worth under this paragraph (a)(5):

(A) The person's primary residence shall not be included as an asset;

(B) Indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and

(C) Indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of securities shall be included as a liability;

(ii) Paragraph (a)(5)(i) of this section will not apply to any calculation of a person's net worth made in connection with a purchase of securities in accordance with a right to purchase such securities, provided that:

(A) Such right was held by the person on July 20, 2010;

(B) The person qualified as an accredited investor on the basis of net worth at the time the person acquired such right; and

(C) The person held securities of the same issuer, other than such right, on July 20, 2010.

(6) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(7) Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in §230.506(b)(2)(ii); and

(8) Any entity in which all of the equity owners are accredited investors.

EXHIBIT B-2

Form of Ballot for Class 4 (Second Lien Debt Claims)

IMPORTANT: *NO CHAPTER 11 CASES HAVE BEEN COMMENCED AS OF THE DATE OF DISTRIBUTION OF THIS BALLOT. THE DEBTORS (AS DEFINED HEREIN) INTEND TO FILE CHAPTER 11 CASES AND SEEK CONFIRMATION OF THE PREPACKAGED PLAN OF REORGANIZATION BY THE BANKRUPTCY COURT SHORTLY THEREAFTER AS DESCRIBED IN GREATER DETAIL IN THE ACCOMPANYING DISCLOSURE STATEMENT. THIS BALLOT IS A COMPONENT OF THE PREPETITION SOLICITATION OF YOUR VOTE ON THE PREPACKAGED PLAN OF REORGANIZATION DESCRIBED BELOW. THE VOTING DEADLINE IS 5:00 P.M. PREVAILING EASTERN TIME ON JUNE 26, 2020.*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

BALLOT FOR ACCEPTING OR REJECTING
THE JOINT PREPACKAGED CHAPTER 11 PLAN OF
SKILLSOFT CORPORATION AND ITS AFFILIATED DEBTORS

BALLOT FOR: CLASS 4 – SECOND LIEN DEBT CLAIMS

HOLDERS OF CLASS 4 SECOND LIEN DEBT CLAIMS SHOULD READ THIS ENTIRE BALLOT BEFORE COMPLETING. PLEASE SUBMIT YOUR VOTE (WHETHER THROUGH "eBALLOT" OR "PAPER BALLOT" AS DEFINED BELOW) SO THAT YOUR VOTE IS ACTUALLY RECEIVED BY THE VOTING AGENT (AS DEFINED BELOW) ON OR BEFORE JUNE 26, 2020 AT 5:00 P.M. (PREVAILING EASTERN TIME) (THE "VOTING DEADLINE"), UNLESS EXTENDED BY THE DEBTORS.

Skillsoft Corporation and certain of its affiliates (the "**Debtors**") have provided you this ballot (the "**Ballot**") with instructions on how to solicit your vote to accept or reject the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors (as amended, modified or supplemented from time to time, the "**Plan**").[2]

Please cast your vote to accept or reject the Plan if you were, as of **June 12, 2020** (the "**Voting Record Date**"), a *holder* of a claim (a "**Holder**") against the Debtors arising under that certain Second Lien Credit Agreement, dated as of April 28, 2014 (as amended, modified, or otherwise supplemented from time to time), by and among certain of the Debtors, as borrower and/or obligor, the Lenders thereunder and as defined therein, the Second Lien Agent, and the other parties thereto, as in effect immediately prior to the Effective Date.

As of the date of distribution of this Ballot, only Accredited Investors[3] (as such term is defined in Rule 501 of the Securities Act of 1933, as amended (the "**Securities Act**")) are entitled to vote to accept or reject the Plan and you should disregard this Ballot if you are not an Accredited Investor.

The Plan is attached as **Exhibit A** to the *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Disclosure Statement**"), which accompanies this Ballot. The Disclosure Statement provides information to assist you in deciding whether to accept or reject the Plan. If you do not have a copy of the Disclosure Statement, you may obtain a copy from the Debtors' solicitation and voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), by calling 877-709-4752 (Domestic) or 424-236-7232 (International), or sending an electronic mail message to skillsoftinfo@kccllc.com with "Skillsoft" in the subject line and requesting that a copy be provided to you. You should review the Disclosure Statement and the Plan in their entirety before you vote. You may wish to seek independent legal advice concerning the Plan and your classification and treatment under the Plan.

IMPORTANT NOTICE REGARDING TREATMENT FOR CLASS 4

As described in more detail in the Disclosure Statement and Plan, if the Plan is confirmed and the Effective Date occurs, on the Effective Date, or as soon as reasonably practicable thereafter, each holder of an Allowed Second Lien Debt Claim shall receive, in full and final satisfaction of such Claim, such holder's *pro rata* share of (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants, and (iii) the Tranche B Warrants, in each case based on such holder's amount of Second Lien Debt Claim as of the Petition Date.

PLEASE READ THE DISCLOSURE STATEMENT AND PLAN FOR MORE DETAILS.

The Debtors intend to commence voluntary cases under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Plan can thereafter be confirmed by the United States

[2] Capitalized terms used but not otherwise herein defined shall have the meanings ascribed to such terms in the Plan.

[3] The definition of "Accredited Investor" is attached hereto as **Exhibit A**.

Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") and thereby made binding on you if: (i) it is accepted by the holders of at least two-thirds of the aggregate principal amount and more than one-half in number of the Claims voted in each Impaired Class of Claims and (ii) the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court may nonetheless confirm the Plan if it finds that the Plan (y) provides fair and equitable treatment to, and does not unfairly discriminate against, the Class or Classes rejecting the Plan and (z) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or if you vote to reject the Plan. To have your vote counted, you must complete, sign, and return this Ballot to the Voting Agent by the Voting Deadline.

Your receipt of this Ballot does not signify that your Claim(s) has been or will be Allowed. This Ballot is solely for purposes of voting to accept or reject the Plan and not for the purpose of allowance or disallowance of or distribution on account of Class 4 Second Lien Debt Claims. You must provide all of the information requested by this Ballot. Failure to do so may result in the disqualification of your vote.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS IN PLAN

IF YOU VOTE TO ACCEPT THE PLAN, YOU SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE, INJUNCTION, AND EXCULPATION PROVISIONS SET FORTH IN SECTIONS 10.5, 10.6, 10.7, 10.8 AND 10.9 OF THE PLAN. IF YOU DO NOT CHECK THE OPT-OUT BOX IN ITEM 3 BELOW AND YOU (I) DO NOT VOTE EITHER TO ACCEPT OR REJECT THE PLAN OR (II) VOTE TO REJECT THE PLAN, YOU SHALL BE DEEMED TO HAVE CONSENTED TO THE RELEASE PROVISIONS SET FORTH IN SECTION 10.7 OF THE PLAN.

10.5 Injunction Against Interference with Plan.

Upon entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

10.6 Plan Injunction

(a) Except as otherwise provided in this Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests, and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property

of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan and the Plan Documents.

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by this Plan, including the injunctions set forth in section 0 of this Plan.

10.7 Releases.

(a) **Releases by Debtors. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.**

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in this Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

10.8 Exculpation.

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, the Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties

shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

10.9 Injunction Related to Releases and Exculpation.

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to this Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in this Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such).

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its

current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

PLEASE READ THE ATTACHED VOTING INFORMATION AND INSTRUCTIONS BEFORE COMPLETING THIS BALLOT

PLEASE COMPLETE ITEMS 1, 2, 3 (IF APPLICABLE), AND 4. IF THIS BALLOT HAS NOT BEEN PROPERLY SIGNED IN THE SPACE PROVIDED, YOUR VOTE MAY NOT BE VALID OR COUNTED AS HAVING BEEN CAST.

Item 1. Principal Amount of Claims. The undersigned hereby certifies that, as of the Voting Record Date, the undersigned was the holder (or authorized signatory of such a holder) of Second Lien Debt Claims in the principal amount set forth below.

$

Item 2. Votes on the Plan. Please vote either to accept or to reject the Plan with respect to your Claims below. Any Ballot not marked either to accept or reject the Plan, or marked both to accept and reject the Plan, shall not be counted in determining acceptance or rejection of the Plan.

Prior to voting on the Plan, please note the following:

If you vote to accept the Plan, you shall be deemed to have consented to the release, injunction, and exculpation provisions set forth in Sections 10.5, 10.6, 10.7, 10.8, and 10.9 of the Plan.

If you (i) do not vote either to accept or reject the Plan or (ii) vote to reject the Plan and, in each case, do not check the box in Item 3 below, you shall be deemed to have consented to the release provisions set forth in Section 10.7(b) of the Plan.

The Disclosure Statement and the Plan must be referenced for a complete description of the release, injunction, and exculpation provisions.

The undersigned holder of a Class 4 Second Lien Debt Claim votes to (check one box):

☐ **Accept** the Plan ☐ **Reject** the Plan

Item 3. Optional Opt Out Release Election. If you voted to reject the Plan in Item 2 above, or if you are abstaining from voting to accept or reject the Plan, check this box if you elect not to grant the releases contained in Section 10.7(b) of the Plan. Election to withhold consent is at your option. If you voted to accept the Plan in Item 2 above, you may not complete this Item 3, and if you complete this Item 3, your "opt out" election will be ineffective. If you submit a rejecting Ballot, or if you abstain from submitting a Ballot, and in each case, you do not check the box below, you will be deemed to consent to the releases contained in Section 10.7(b) of the Plan to

the fullest extent permitted by applicable law. The Holder of the Class 4 Second Lien Debt Claim set forth in Item 1 elects to:

☐ **OPT OUT** of the releases contained in Section 10.7(b) of the Plan.

Item 4. Acknowledgments. By signing this Ballot, the Holder (or authorized signatory of such Holder) acknowledges receipt of the Plan, the Disclosure Statement, and the other applicable solicitation materials, and certifies that (i) it has the power and authority to vote to accept or reject the Plan, (ii) it was the Holder (or is entitled to vote on behalf of such Holder) of the Second Lien Debt Claims described in Item 1 as of the Voting Record Date, (iii) it is an "accredited investor" within the meaning of Rule 501(a) under Regulation D of the Securities Act of 1933, as amended, and (iv) all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder, shall be binding on the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy, and legal representatives of the undersigned, and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

_____
Name of Holder

_____
Signature

_____
If by Authorized Agent, Name and Title

_____
Name of Institution

_____
Street Address

_____
City, State, Zip Code

_____
Telephone Number

_____
Date Completed

_____
E-Mail Address

VOTING INFORMATION AND INSTRUCTIONS FOR COMPLETING THE BALLOT

1. Ballots received after the Voting Deadline (if the Voting Deadline has not been extended) may not, at the Debtors' discretion, be counted. **The Voting Agent will tabulate all properly completed Ballots received on or before the Voting Deadline.**

2. Submit your vote by either

   (a) Logging on to the online, electronic balloting platform maintained by KCC at www.kccllc.net/skillsoft under the "eBallot" section ("**eBallot**"), clicking on the "Submit eBallot" link, and following the instructions set forth on the website[1], or

   (b) Completing, executing, and submitting this paper Ballot ("**Paper Ballot**") to KCC via first class mail, overnight mail, or personal delivery to Skillsoft Ballot Processing, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245.

3. If a Holder submits its vote through eBallot, it does not need to submit a Paper Ballot.

4. Any Ballot that is illegible, contains insufficient information to identify the Holder, does not contain an original signature (with the understanding that a creditor's electronic signature submitted through eBallot will be deemed an "original signature" and to be immediately legally valid and effective), or is unsigned, will not be counted. Ballots may not be submitted to the Voting Agent by facsimile or e-mail. If neither the "accept" nor "reject" box is checked in Item 2, both boxes are checked in Item 2, or the Ballot is otherwise not properly completed, executed, or timely returned, then the Ballot shall not be counted in determining acceptance or rejection of the Plan.

5. You must vote all your Class 4 Second Lien Debt Claims under the Plan either to accept or reject the Plan. Accordingly, if you return more than one Ballot voting different First Lien Debt Claims under the Plan, the Ballots are not voted in the same manner, and you do not correct this before the Voting Deadline, those Ballots will not be counted. An otherwise properly executed Ballot that attempts to partially accept and partially reject the Plan likewise will not be counted. Further, to the extent you vote multiple Claims within Class 3 consistently, the Debtors may, in their discretion, aggregate those votes for numerosity purposes.

6. If you hold a Claim in more than one Class entitled to vote, you may receive more than one Ballot for each such Claim. Each Ballot votes only your Claims indicated on that Ballot. Accordingly, you must complete and return each Ballot you receive to vote multiple Claims.

7. If you voted to reject the Plan or if you are abstaining from voting to accept or reject the Plan, and in each case elect not to grant the releases contained in Section 10.7(b) of the

[1] The encrypted ballot data and audit trail created by such electronic eBallot submission shall become part of the record of any vote submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective.

Plan, you must check the box in Item 3. Election to withhold consent is at your option. If you submit a rejecting Ballot, or if you abstain from submitting a Ballot, and in each case, you do not check the box in Item 3, you will be deemed to consent to the releases set forth in Section 10.7(b) of the Plan.

8. If you vote to accept the Plan by checking the "accept" box in Item 2, but you also check the box in Item 3, your election not to grant the releases will not be counted, as your vote in favor of the Plan shall be deemed a consent to the releases set forth in Section 10.7(b) of the Plan.

9. The Ballot does not constitute, and shall not be deemed to be, a proof of Claim or an assertion or admission of Claims.

10. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan.

11. If you cast more than one Ballot voting the same Claims prior to the Voting Deadline, the latest received, properly executed Ballot submitted to the Voting Agent will supersede any prior Ballot.

12. If (i) the Debtors revoke or withdraw the Plan, or (ii) the Confirmation Order is not entered, or (iii) consummation of the Plan does not occur, this Ballot shall automatically be null and void and deemed withdrawn without any requirement of affirmative action by or notice to you.

13. There may be changes made to the Plan that do not cause material adverse effects on an accepting Class. If such non-material changes are made to the Plan, the Debtors will not resolicit votes for acceptance or rejection of the Plan.

14. Any votes rejected as non-conforming to the aforementioned provisions will be set forth on an exhibit to KCC's voting certification.

15. NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, OTHER THAN WHAT IS CONTAINED IN THE MATERIALS MAILED WITH THIS BALLOT, ANY SUPPLEMENTAL INFORMATION PROVIDED BY THE DEBTORS, OR OTHER MATERIALS AUTHORIZED BY THE BANKRUPTCY COURT.

16. PLEASE RETURN YOUR BALLOT PROMPTLY.

17. IF YOU HAVE RECEIVED A DAMAGED BALLOT OR HAVE LOST YOUR BALLOT, OR IF YOU HAVE ANY QUESTIONS CONCERNING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE VOTING AGENT BY CALLING 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR BY SENDING AN ELECTRONIC MAIL MESSAGE TO SKILLSOFTINFO@KCCLLC.COM WITH "SKILLSOFT" IN THE SUBJECT LINE. PLEASE DO NOT DIRECT ANY INQUIRIES TO THE BANKRUPTCY COURT.

18. THE VOTING AGENT IS NOT AUTHORIZED TO, AND WILL NOT, PROVIDE LEGAL ADVICE.

19. ALL BALLOTS MUST BE FULLY EXECUTED TO BE COUNTED. IF YOU ARE COMPLETING THIS BALLOT ON BEHALF OF ANOTHER PERSON OR ENTITY, INDICATE YOUR RELATIONSHIP WITH SUCH PERSON OR ENTITY AND THE CAPACITY IN WHICH YOU ARE SIGNING. YOU MAY BE REQUIRED TO PROVIDE ADDITIONAL INFORMATION OR DOCUMENTATION WITH RESPECT TO SUCH RELATIONSHIP.

eBallot Voting Instructions

To properly submit your vote electronically, you must electronically complete, sign, and return this customized Ballot by utilizing the eballot platform on KCC's website by visiting www.kccllc.net/skillsoft, clicking on the "Submit eBallot" link and following the instructions set forth on the website. Your Ballot must be received by KCC no later than 5:00 P.M. (Prevailing Eastern Time) on June 26, 2020, the Voting Deadline, unless such time is extended by the Debtors. HOLDERS ARE STRONGLY ENCOURAGED TO SUBMIT THEIR BALLOTS VIA THE eBALLOT PLATFORM. KCC's "eBallot" platform is the sole manner in which ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email, or other means of electronic transmission will not be counted.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Ballot:

Unique eBallot ID#: _____

PIN #: _____

Each eBallot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an eBallot for each eBallot ID# you receive, as applicable.

If you are unable to use the eBallot platform or need assistance in completing and submitting your vote, please contact KCC:

VIA PHONE AT 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR EMAIL AT skillsoftinfo@kccllc.com.

Holders who cast a Ballot using KCC's "eBallot" platform should NOT also submit a Paper Ballot.

Paper Ballot Voting Instructions

To properly submit your vote by Paper Ballot, you must complete, sign, and return this customized Paper Ballot via (i) the enclosed, pre-paid envelope, (ii) first class mail, (iii) overnight courier, or

(iv) hand delivery, so that the Paper Ballot is **actually received** by the Voting Agent no later than the Voting Deadline at the following address:

SKILLSOFT BALLOT PROCESSING CENTER C/O KCC
222 N. PACIFIC COAST HIGHWAY
SUITE 300
EL SEGUNDO, CA 90245
Email: skillsoftinfo@kccllc.com

THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN IS JUNE 26, 2020 AT 5:00 P.M. (PREVAILING EASTERN TIME).

Exhibit A

"Accredited Investor"

"Accredited Investor" is defined in Rule 501 of the Securities Act of 1933 as:

(a) any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(1) any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(2) any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(3) any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;

(4) any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(5) any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds $1,000,000.

(i) Except as provided in paragraph (a)(5)(ii) of this section, for purposes of calculating net worth under this paragraph (a)(5):

(A) The person's primary residence shall not be included as an asset;

(B) Indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and

(C) Indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of securities shall be included as a liability;

(ii) Paragraph (a)(5)(i) of this section will not apply to any calculation of a person's net worth made in connection with a purchase of securities in accordance with a right to purchase such securities, provided that:

(A) Such right was held by the person on July 20, 2010;

(B) The person qualified as an accredited investor on the basis of net worth at the time the person acquired such right; and

(C) The person held securities of the same issuer, other than such right, on July 20, 2010.

(6) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

(7) Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in §230.506(b)(2)(ii); and

(8) Any entity in which all of the equity owners are accredited investors.

Exhibit C-1

1L Memorandum

Memorandum

Date: June 14, 2020

To: Lenders

From: Skillsoft Corporation (the "Borrower")

Subject: **Commencement of Solicitation of Votes on *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors***

On June 14, 2020, Skillsoft Corporation and certain of its affiliates (the "**Debtors**") commenced solicitation with respect to the *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Plan**").[1] The Plan is attached as **Exhibit A** to the *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Disclosure Statement**"), which is annexed hereto as **Attachment 1**. The Debtors intend to file voluntary cases under chapter 11 of title 11 of the United States Code and seek confirmation of the Plan by the Bankruptcy Court.

Pursuant to the Plan, holders of First Lien Debt Claims are Impaired and are entitled to vote on the Plan.[2] Each holder of a First Lien Debt Claim should have received a ballot (a "**Ballot**") with detailed instructions on how to cast such holder's vote to accept or reject the Plan. Ballots were distributed via email and/or overnight mail to all holders of First Lien Debt Claims by the Debtors' solicitation and voting agent, Kurtzman Carson Consultants LLC ("**KCC**" or the "**Voting Agent**"), using contact information provided to the Debtors by the First Lien Agent; however, there were certain Lenders for which the First Lien Agent did not have contact information readily available.

IF YOU BELIEVE YOU ARE A HOLDER OF A FIRST LIEN DEBT CLAIM AND YOU DID NOT RECEIVE A BALLOT, YOU SHOULD IMMEDIATELY CONTACT THE VOTING AGENT BY CALLING 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR SENDING AN ELECTRONIC MAIL MESSAGE TO SKILLSOFTINFO@KCCLLC.COM WITH "SKILLSOFT" IN THE SUBJECT LINE, AND REQUEST THAT A BALLOT BE PROVIDED TO YOU.

The Debtors intend to request that the Bankruptcy Court establish **June 26, 2020 at 5:00 p.m. (prevailing Eastern Time)** as the deadline (the "**Voting Deadline**") by which all votes on the Plan must be actually received by the Voting Agent in order to be counted. Each holder of a First Lien Debt Claim must complete, sign, and return a Ballot to the Voting Agent so that it is actually received by the Voting Agent by the Voting Deadline. For additional information regarding filed pleadings, voting materials, and other key dates/deadlines, please visit www.kccllc.net/skillsoft.

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[1] Capitalized terms used but not otherwise herein defined shall have the meanings ascribed to such terms in the Plan.

[2] Please read the Disclosure Statement and Plan for more detail regarding the treatment of First Lien Debt Claims under the Plan.

Exhibit C-2

2L Memorandum

Memorandum

Date: June 14, 2020

To: Lenders

From: Skillsoft Corporation (the "Borrower")

Subject: **Commencement of Solicitation of Votes on *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors***

On June 14, 2020, Skillsoft Corporation and certain of its affiliates (the "**Debtors**") commenced solicitation with respect to the *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Plan**").[1] The Plan is attached as **Exhibit A** to the *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and its Affiliated Debtors* (as amended, modified or supplemented from time to time, the "**Disclosure Statement**"), which is annexed hereto as **Attachment 1**. The Debtors intend to file voluntary cases under chapter 11 of title 11 of the United States Code and seek confirmation of the Plan by the Bankruptcy Court.

Pursuant to the Plan, holders of Second Lien Debt Claims are Impaired and are entitled to vote on the Plan.[2] Each holder of a Second Lien Debt Claim should have received a ballot (a "**Ballot**") with detailed instructions on how to cast such holder's vote to accept or reject the Plan. Ballots were distributed via email and/or overnight mail to all holders of Second Lien Debt Claims by the Debtors' solicitation and voting agent, Kurtzman Carson Consultants LLC ("**KCC**" or the "**Voting Agent**"), using contact information provided to the Debtors by the Second Lien Agent; however, there were certain Lenders for which the Second Lien Agent did not have contact information readily available.

IF YOU BELIEVE YOU ARE A HOLDER OF A SECOND LIEN DEBT CLAIM AND YOU DID NOT RECEIVE A BALLOT, YOU SHOULD IMMEDIATELY CONTACT THE VOTING AGENT BY CALLING 877-709-4752 (DOMESTIC) OR 424-236-7232 (INTERNATIONAL) OR SENDING AN ELECTRONIC MAIL MESSAGE TO SKILLSOFTINFO@KCCLLC.COM WITH "SKILLSOFT" IN THE SUBJECT LINE, AND REQUEST THAT A BALLOT BE PROVIDED TO YOU.

The Debtors intend to request that the Bankruptcy Court establish **June 26, 2020 at 5:00 p.m. (prevailing Eastern Time)** as the deadline (the "**Voting Deadline**") by which all votes on the Plan must be actually received by the Voting Agent in order to be counted. Each holder of a Second Lien Debt Claim must complete, sign, and return a Ballot to the Voting Agent so that it is actually received by the Voting Agent by the Voting Deadline. For additional information regarding filed pleadings, voting materials, and other key dates/deadlines, please visit www.kccllc.net/skillsoft.

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[1] Capitalized terms used but not otherwise herein defined shall have the meanings ascribed to such terms in the Plan.

[2] Please read the Disclosure Statement and Plan for more detail regarding the treatment of Second Lien Debt Claims under the Plan.

TAB NN

Order (I) Scheduling Combined Hearing to Consider (A) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiving Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice and Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017, and 3018

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 13**

ORDER (I) SCHEDULING COMBINED HEARING TO CONSIDER (A) APPROVAL OF DISCLOSURE STATEMENT, (B) APPROVAL OF SOLICITATION PROCEDURES AND FORMS OF BALLOTS, AND (C) CONFIRMATION OF PREPACKAGED PLAN; (II) ESTABLISHING AN OBJECTION DEADLINE TO OBJECT TO DISCLOSURE STATEMENT AND PLAN; (III) APPROVING THE FORM AND MANNER OF NOTICE OF COMBINED HEARING, OBJECTION DEADLINE, AND NOTICE OF COMMENCEMENT; (IV) CONDITIONALLY WAIVING REQUIREMENT OF FILING STATEMENT OF FINANCIAL AFFAIRS AND SCHEDULES OF ASSETS AND LIABILITIES; (V) APPROVING NOTICE AND OBJECTION PROCEDURES FOR THE ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (VI) CONDITIONALLY WAIVING REQUIREMENT TO CONVENE THE SECTION 341 MEETING OF CREDITORS; AND (VII) GRANTING RELATED RELIEF PURSUANT TO SECTIONS 105(a), 341, 521(a), 1125, 1126, AND 1128 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 1007, 2002, 3017, AND 3018

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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(collectively, the "**Debtors**"), for entry of an order (i) scheduling a combined hearing (the "**Combined Hearing**") to consider (a) approval of the Disclosure Statement and (b) confirmation of the Prepackaged Plan; (ii) establishing an objection deadline to object to the adequacy of the Disclosure Statement or confirmation of the Prepackaged Plan; (iii) approving the Solicitation Procedures; (iv) approving the form and manner of the notice of the Combined Hearing, the Objection Deadline, and notice of commencement; (v) approving the notice and objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan; (vi) extending the deadline for the Debtors to file schedules of assets and liabilities and statements of financial affairs (collectively, the "**Schedules and Statements**") through and including August 7, 2020 (the "**SOAL/SOFA Deadline**"), and conditionally waiving the requirement that the Debtors file the Schedules and Statements if confirmation of the Prepackaged Plan is obtained; (vii) conditionally waiving the requirement to convene the Section 341 Meeting; and (viii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and

it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The confirmation schedule set forth in the Motion is hereby approved, except as may be modified below.

3. A hearing to consider compliance with disclosure and solicitation requirements and confirmation of the Debtors' Prepackaged Plan (the "**Combined Hearing**") is hereby scheduled to be held before this Court on July 24, 2020 at 10:30 a.m. (prevailing Eastern Time). The Combined Hearing may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court or at the Combined Hearing and notice of such adjourned date(s) will be available on the electronic case filing docket.

4. Objections to the Disclosure Statement and/or the Prepackaged Plan shall be: (i) in writing; (ii) filed with the Clerk of Court together with proof of service thereof; (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the estate or property of the Debtors, and (iv) state the legal and factual basis for such objection; and (v) conform to the applicable Bankruptcy Rules and the Local Rules, by no later than **4:00 p.m. (prevailing Eastern Time) on July 17, 2020** (the "**Objection Deadline**"). In addition to being filed with the Clerk of the Court, any such Objections should be served upon the following parties in accordance with the Local Rules:

i. Skillsoft Corporation, 300 Innovative Way, Suite 201, Nashua, NH 03062 (Attn: Greg Porto, Chief People Officer (Greg.Porto@skillsoft.com);

ii. proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (Gary.Holtzer@weil.com), Robert J. Lemons, Esq. (Robert.Lemons@weil.com), and Katherine Theresa Lewis, Esq. (Katherine.Lewis@weil.com)) and Richard, Layton & Finger, P.A. One Rodney Square, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amanda R. Steele, Esq. (steele@rlf.com) and Chris De Lillo, Esq. (delillo@rlf.com));

iii. counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina Brown, Esq. (Christina.brown@gibsondunn.com));

iv. counsel to the Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com));

v. counsel to Wilmington Savings Fund Society, FSB, in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vi. counsel to Wilmington Savings Fund Society, FSB, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

vii. counsel to Wilmington Savings Fund Society, FSB, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq. (bateman@sewkis.com));

viii. Counsel to the AR Facility Agent, Holland & Knight, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston, Esq. (Samuel.Pinkston@hklaw.com)); and

ix. the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), 844 N King St., Suite 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.).

5. Any objection not timely filed and served in the manner set forth in this Order may, in the Court's discretion, not be considered and may be overruled.

6. Notice of the Combined Hearing as proposed in the Motion and the form of notice annexed hereto as **Exhibit 1** shall be deemed good and sufficient notice of the Combined Hearing and no further notice need be given; *provided, however,* that any provision of Bankruptcy Rule 3017(d) requiring the Debtors to distribute the Disclosure Statement and the Prepackaged Plan to parties not entitled to vote, whether because they are unimpaired or because they are deemed to reject the Prepackaged Plan, or any parties in interest other than as prescribed in this Order, shall be waived; *provided further, however,* the Disclosure Statement and Prepackaged Plan shall remain posted in PDF format to the following page at www.kccllc.net/skillsoft and shall be provided in either electronic or paper form to any parties in interest upon written request to the Debtors. The Debtors shall also serve a copy of the Combined Notice on all known creditors, interest holders, and interested parties.

7. Service of the Combined Notice as set forth in the Motion and herein is sufficient notice of the Petition Date, the Combined Hearing, the Objection Deadline, the procedures for objecting to the adequacy of the Disclosure Statement and to confirmation of the Prepackaged Plan, and the procedures for objecting to the Debtors' assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan.

8. To the extent that section 1125(b) of the Bankruptcy Code requires the Debtors' prepetition solicitation of acceptances for the Prepackaged Plan to be pursuant to an approved disclosure statement in order to continue on a postpetition basis, the Court conditionally approves the Disclosure Statement having adequate information as required by section 1125 of the Bankruptcy Code without prejudice to any party in interest objecting to the Disclosure Statement at the Combined Hearing.

9. The Debtors, in their discretion, are authorized pursuant to Bankruptcy Rule 2002(l) to give supplemental publication notice of the Combined Hearing, or shortened version thereof, by publication in a newspaper or newspapers designated by the Debtors in their sole discretion and on a date no less than twenty-eight (28) days prior to the Combined Hearing.

10. Any objection to the assumption or rejection of executory contracts and unexpired leases must (a) be in writing; (b) conform to the applicable Bankruptcy Rules and Local Rules, (c) set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof; (d) be filed with the Bankruptcy Court by the Objection Deadline, together with proof of service, and (e) served upon the Notice Parties.

11. The objection procedures in connection with the assumption or rejection of executory contracts and unexpired leases pursuant to the Prepackaged Plan are approved, as set forth in the Combined Notice.

12. The time within which the Debtors shall file the Schedules and Statements is extended through and including August 7, 2020 without prejudice to the Debtors' right to seek further extensions of the time within which to file the Schedules and Statements or to seek additional relief from this Court regarding the filing of, or waiver of the requirement to file, the Schedules and Statements.

13. The requirement that the Debtors file the Schedules and Statements is permanently waived effective upon the date of confirmation of the Prepackaged Plan, provided confirmation occurs on or before the SOAL/SOFA Deadline.

14. The U.S. Trustee shall not be required to schedule a meeting of creditors and equity holders pursuant to Bankruptcy Code section 341(a) and (b), unless the Prepackaged Plan is not confirmed in these chapter 11 cases on or before the SOAL/SOFA Deadline.

15. Notwithstanding anything to the contrary herein or in the confirmation schedule set forth in the Motion, any holder of Claims in Class 3 and/or Class 4 that is a Consenting Creditor may revoke its vote at any time following the termination of the Restructuring Support Agreement with respect to such Consenting Creditor. Upon such revocation, such Consenting Creditor shall be entitled to submit a replacement vote so as to be received by KCC no later than 5:00 p.m. (prevailing Eastern Time) on the date that is seven (7) days following such revocation.

16. The Debtors are authorized to take all steps necessary or appropriate to carry out the relief granted pursuant to this Order in accordance with the Motion.

17. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Combined Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

NOTICE OF (I) COMMENCEMENT OF CHAPTER 11 CASES, (II) COMBINED HEARING ON DISCLOSURE STATEMENT, CONFIRMATION OF JOINT PREPACKAGED CHAPTER 11 PLAN, AND RELATED MATTERS, AND (III) OBJECTION DEADLINES, AND SUMMARY OF DEBTORS' JOINT PREPACKAGED CHAPTER 11 PLAN

NOTICE IS HEREBY GIVEN as follows:

1. On June 14, 2020 (the "**Petition Date**") Skillsoft Corp. and its affiliated debtors, as debtors and debtors in possession (collectively, the "**Debtors**"), each commenced a case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

2. On the Petition Date, the Debtors filed a "prepackaged" plan of reorganization (the "**Prepackaged Plan**") and a proposed disclosure statement (the "**Disclosure Statement**") pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Copies of the Prepackaged Plan and the Disclosure Statement may be obtained free of charge by visiting the website maintained by the Debtors' voting agent, Kurtzman Carson Consultants LLC (the "**Voting Agent**" or "**KCC**"), at www.kccllc.net/skillsoft. Copies of the Prepackaged Plan and Disclosure Statement may also be obtained by calling the Voting Agent at 877-709-4752 (domestic hotline) 424-236-7232 (international hotline) or emailing the Voting Agent at skillsoftinfo@kccllc.com.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

Information Regarding Prepackaged Plan

3. On June 14, 2020, the Debtors commenced solicitation of votes to accept the Prepackaged Plan from the holders of Class 3 (First Lien Debt Claims) and Class 4 (Second Lien Debt Claims) of record as of June 12, 2020. Only holders of Claims in Class 3 and Class 4 are entitled to vote to accept or reject the Prepackaged Plan. All other classes of claims were either deemed to accept or reject the Prepackaged Plan and, therefore, are not entitled to vote. **The deadline for the submission of votes to accept or reject the Prepackaged Plan is June 26, 2020 at 5:00 p.m. (Prevailing Eastern Time).**

4. The Debtors are proposing a restructuring that, pursuant to the Prepackaged Plan, will provide substantial benefits to the Debtors and all of their stakeholders. Upon its full implementation, the Prepackaged Plan will reduce the Debtors' balance sheet liabilities from approximately $2.1 billion in prepetition funded debt down to approximately $585 million in funded debt. In addition to significantly de-levering the Debtors' balance sheet, the Debtors will emerge from chapter 11 with access to a new working capital facility that will provide sufficient liquidity to allow the Debtors to continue funding business operations. The restructuring will allow the Debtors' management team to focus on operational performance and value creation, execute on growth initiatives, and continue to serve as an international leader and innovator in the corporate learning market.

5. A combined hearing to consider the adequacy of the Disclosure Statement and any objections thereto and to consider confirmation of the Prepackaged Plan and any objections thereto will be held before the Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801, **on July 24, 2020 at 10:30 a.m. (Prevailing Eastern Time)** (the "**Combined Hearing**"). The Combined Hearing may be adjourned from time to time without further notice other than by filing a notice of the Bankruptcy Court's docket indicating such adjournment and/or announcement of the adjournment date or dates at the Combined Hearing. The adjourned dates will be available on the electronic case filing docket and the Voting Agent's website www.kccllc.net/skillsoft.

6. The deadline for filing objections to the adequacy of the Disclosure Statement or confirmation of the Plan is **July 17, 2020, at 4:00 p.m. (Prevailing Eastern Time)** (the "**Objection Deadline**"). Any objections to the Disclosure Statement and/or the Prepackaged Plan must be: (i) in writing, (ii) filed with the Clerk of the Court together with proof of service thereof, (iii) set forth the name of the objecting party, and the nature and amount of any claim or interest asserted by the objecting party against the Debtors' estates or property of the Debtors; and (iv) state the legal and factual basis for such objection, and (v) conform to the applicable Bankruptcy Rules and the Local Rules.

7. In addition to being filed with the Clerk of the Court, any such objections should be served upon the following parties in accordance with the Local Rules:

Debtors
Skillsoft Corporation
300 Innovative Way, Suite 201
Nashua, New Hampshire, 03062
Telephone: (866) 757-73177
Attn: Greg Porto
Email: greg.porto@skillsoft.com

Office of the U.S. Trustee
Office of the U.S. Trustee for
the District of Delaware
844 King Street
Suite 2207, Lockbox 35
Wilmington, Delaware 19801
Attn: Jane Leamy, Esq.
Email: jane.m.leamy@usdoj.gov

Proposed Counsel to the Debtors
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Gary T. Holtzer, Esq.
Robert J. Lemons, Esq.
Katherine Theresa Lewis, Esq.
Email: gary.holtzer@weil.com
robert.lemons@weil.com
katherine.lewis@weil.com

Proposed Co-Counsel to the Debtors
Richards, Layton, & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq.
Amanda R. Steele, Esq.
Christopher M. De Lillo, Esq.
Email: collins@rlf.com
steele@rlf.com
delillo@rlf.com

Counsel to the First Lien Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

Counsel to the Ad Hoc First Lien Group
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attn: Scott J. Greenberg, Esq.
Steven A. Domanowski, Esq.
Christina M. Brown, Esq.
Email: sgreenberg@gibsondunn.com
sdomanowski@gibsondunn.com
christina.brown@gibsondunn.com

Counsel to the Second Lien Agent
Seward & Kissel LLP
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Counsel to the Ad Hoc Crossholder Group
Milbank LLP
55 Hudson Yards
New York, New York, 10001
Attn: Evan R. Fleck, Esq.
Benjamin M. Schak, Esq.
Sarah Levin, Esq.
Email: efleck@milbank.com
bschak@milbank.com

Counsel to the DIP Agent
Seward & Kissel LLP
One Battery Park Plaza
New York, New York 10004
Attn: Gregg S. Bateman, Esq.
Email: bateman@sewkis.com

slevin@milbank.com

UNLESS AN OBJECTION IS TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AT THE COMBINED HEARING.

Notice of Assumption of Executory Contracts and Unexpired Leases of Debtors and Related Procedures

8. Please take notice that, in accordance with Section 8.1 of the Plan and sections 365 and 1123 of the Bankruptcy Code, all Executory Contracts and Unexpired Leases shall be deemed assumed, including the Restructuring Support Agreement, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date under section 365 of the Bankruptcy Code (such contracts and leases, the "**Assumed Contracts**"), unless such Executory Contract and Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject filed on or before the Effective Date; or (iv) is identified on the Rejected Executory Contract and Unexpired Lease List.

9. Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default (a "**Cure Amount**") shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the Debtors or Reorganized Debtors, as applicable, upon assumption thereof. If you believe that any Cure Amounts are due by the Debtors in connection with the assumption of your contract or unexpired lease, you should assert such Cure Amounts against the Debtors in the ordinary course of business.

10. To the extent that you object to the assumption of an Assumed Contract on any basis, including the Debtors' satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code to provide adequate assurance of future performance under an Assumed Contract, you must (a) file with the Bankruptcy Court a written objection (the "**Objection**") no later than the Objection Deadline that complies with the Bankruptcy Rules and the Local Rules and sets forth (i) the basis for such objection and specific grounds therefor, and (ii) the name and contact information of the person authorized to resolve such objection, and (b) serve the same on the parties listed above.

11. If no Objection is timely filed with respect to an Assumed Contract, (a) you shall be deemed to have assented to (i) the assumption of such Assumed Contract, (ii) the effective date of such assumption, and (iii) the satisfaction of the requirement under section 365(b)(1)(C) of the Bankruptcy Code of the Debtors to provide adequate assurance of future performance under such Assumed Contract, and (b) you shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or the adequate assurance of future performance contemplated herein.

12. The Debtors request that, before filing an Objection, you contact the Debtors prior to the Objection Deadline to attempt to resolve such dispute consensually. The

Debtors' contact for such matters is Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com), Robert J. Lemons, Esq. (robert.lemons@weil.com), and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and Richards, Layton & Finger, P.A., 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq. (collins@rlf.com), Amada R. Steele, Esq. (steele@rlf.com) and Christopher M. De Lillo, Esq. (delillo@rlf.com)). If such dispute cannot be resolved consensually prior to the Objection Deadline (as the same may be extended by agreement of the Debtors), you must file and serve an Objection as set forth herein to preserve your right to object.

13. If a timely Objection is filed and served in accordance with this notice pertaining to assumption of an Assumed Contract, and cannot be otherwise resolved by the parties pursuant to Section 8.2 of the Prepackaged Plan, the Bankruptcy Court may hear such Objection at a date set by the Bankruptcy Court.

Summary of the Prepackaged Plan

14. Solicitation of votes on the Prepackaged Plan commenced prior to the Petition Date. The following chart summarizes the treatment provided by the Prepackaged Plan to each class of Claims and Interests:

Class	Claim or Equity Interest	Treatment	Impaired or Unimpaired	Entitlement to Vote on the Plan	Approx. Percentage Recovery[2]
Class 1	Other Priority Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) such other treatment sufficient to render such holder's Allowed Other Priority Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 2	Other Secured Claims	The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%

[2] The values set forth under Approximate Percentage Recovery are based on the midpoint of the range of reorganized equity value of the Debtors as described in the Valuation Analysis set forth in this Disclosure Statement.

		treatment, on the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter, each holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Claim, at the option of the Reorganized Debtors (i) Cash in an amount equal to the Allowed amount of such Claim, (ii) reinstatement or such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, or (iii) such other recovery necessary to satisfy section 1129 of the Bankruptcy Code.			
Class 3	First Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed First Lien Debt Claims, the holders of Allowed First Lien Debt Claims (or the permitted assigns or designees of such holders) shall receive their Pro Rata share of: (i) New Second Out Term Loans; and (ii) 96% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans.	Impaired	Yes	Estimated Percentage Recovery: 71%
Class 4	Second Lien Debt Claims	On the Effective Date, in full and final satisfaction, release, and discharge of the Allowed Second Lien Debt Claims, the holders of Allowed Second Lien Debt Claims shall receive their Pro Rata share of: (i) 4% of Newco Equity (subject to dilution by the Warrants and the Incentive Plans); (ii) the Tranche A Warrants; and (iii) the Tranche B Warrants.	Impaired	Yes	Estimated Percentage Recovery: 3%[3]
Class 5	General Unsecured Claims	The legal, equitable, and contractual rights of the holders of Allowed General Unsecured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on and after the Effective Date, or as soon as reasonably practicable thereafter, the Debtors shall continue to pay or dispute each General Unsecured Claim in the ordinary course of business as if the Chapter 11 Cases had never been commenced.	Unimpaired	No (Deemed to accept)	Estimated Percentage Recovery: 100%
Class 6	Subordinated Claims	On the Effective Date, or as soon as practicable thereafter, all Subordinated Claims shall be deemed cancelled without further action by or order of the Bankruptcy Court, and shall be of no further force and effect, whether surrendered for cancellation or otherwise.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 7	Intercompany Claims	On the Effective Date, all Intercompany Claims shall be reinstated, cancelled, reduced, transferred, or otherwise treated (by way of contribution to capital or otherwise), in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

[3] Estimated percentage recovery excludes value attributable to warrants.

Class 8	Existing Parent Equity Interests	On the Effective Date, the entire share capital of Parent shall be transferred to Newco Borrower in accordance with the Restructuring Transaction Steps. Holders of Existing Parent Equity Interests shall receive no distribution under this Plan.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 9	Other Equity Interests	On the Effective Date, Other Equity Interests shall be cancelled, released, and extinguished and shall be of no further force and effect.	Impaired	No (Deemed to reject)	Estimated Percentage Recovery: 0%
Class 10	Intercompany Interests	On the Effective Date, all Intercompany Interests shall be reinstated, modified, cancelled, or otherwise treated, in each case at the Debtors' or Reorganized Debtors' option (with the consent of the Requisite Creditors), in accordance with the Restructuring Transaction Steps.	Impaired/ Unimpaired	No (Deemed to accept or reject)	Estimated Percentage Recovery: -

Non-Voting Status of Holders of Certain Claims and Interests

15. As set forth above, certain holders of Claims and Interests are **not** entitled to vote on the Prepackaged Plan. As a result, such parties did not receive any ballots and other related solicitation materials to vote on the Prepackaged Plan. The holders of Claims and Interests in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), and Class 5 (General Unsecured Claims) are unimpaired under the Prepackaged Plan, and therefore, are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) of the Bankruptcy Code. The holders of Claims and Interests in Class 6 (Subordinated Claims), Class 8 (Existing Parent Equity Interests), and Class 9 (Other Equity Interests) are not entitled to a recovery under the Prepackaged Plan, and therefore, are deemed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. The holders of Claims and Interests in Class 7 (Intercompany Claims) and Class 10 (Intercompany Interests) are presumed to have accepted the Prepackaged Plan pursuant to section 1126(f) or presumed to reject the Prepackaged Plan pursuant to section 1126(g) of the Bankruptcy Code. Finally, parties to certain of the Debtors' executory contracts and unexpired leases may not have Claims pending the disposition of their contracts or leases by assumption or rejection under the Prepackaged Plan. Such parties nevertheless are being provided with this Combined Hearing Notice, and will be separately notified of the projected disposition of their contracts and/or lease. Upon request, the Voting Agent will provide you, free of charge, with copies of the Prepackaged Plan, the Disclosure Statement, and the Combined Hearing Notice.

NOTICE REGARDING CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS IN THE PREPACKAGED PLAN

PLEASE BE ADVISED THAT THE PREPACKAGED PLAN CONTAINS CERTAIN RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, INCLUDING:

Section 10.5 ***Injunction Against Interference with Plan***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees,

agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

Section 10.6 *Plan Injunction*

(a) Except as otherwise provided in the Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims or Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan and the Plan Documents.

(b) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth in Section 10.6 of the Plan.

Section 10.7 *Releases*

(a) **Releases by Debtors. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, the Debtors and the Estates are deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities**

whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct.

(b) **Releases by Holders of Claims or Interests. Except as otherwise expressly provided in the Plan, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including without limitation the efforts of the Debtors and Released Parties to facilitate the reorganization of the Debtors and the implementation of the Restructuring contemplated by the Restructuring Support Agreement, on and after the Effective Date, to the maximum extent permitted by applicable law, each Releasing Party shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released, waived, and discharged each Released Party from, and covenanted not to sue on account of, any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims and avoidance actions, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place at any time prior to or on the Effective Date, arising from or related in any way in whole or in part to the Chapter 11 Cases, the Restructuring, the Evergreen Skills Entities, the Parent, the Company or any direct or indirect subsidiary of the Parent, the First Lien Credit Agreement, Second Lien Credit Agreement, any Credit Document (as defined in the Credit Agreements), the Existing AR Credit Agreement, the purchase, sale, or rescission of the offer, purchase or sale of any security of the Company, the subject matter of, or the transactions or events giving rise to, any claim against or equity interest in the Company that is treated hereunder, or the negotiation, formulation, or preparation of the Definitive Documents or related agreements, instruments, or other documents, in each case other than claims or liabilities arising out of a Released Party's own intentional fraud, gross negligence, or willful misconduct. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any First Lien Lender, Second Lien Lender, or DIP Lender from its respective obligations to the First Lien Agent, the Second Lien Agent, or the DIP Agent (and their respective successors, agents, and servants), as the case may be, under the applicable Credit Agreements or the DIP Credit Agreement.**

Section 10.8 *Exculpation*

To the fullest extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party shall be released and exculpated from, any claim or Cause of Action in connection with or arising out of the administration of the chapter 11 cases; the negotiation and pursuit of the DIP Facility, the New First Out Term Loan Facility, the New Second Out Term Loan Facility, the Exit AR Facility, the Warrants, the Incentive Plans, this Disclosure Statement, the Restructuring Supporting Agreement, the Restructuring, and the Plan, or the solicitation of votes for, or confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or the transactions in furtherance of any of the foregoing; other than claims or Causes of Action arising out of or related to any act or omission of an Exculpated Party that is a criminal act or constitutes intentional fraud or willful misconduct as determined by a Final Order. In all respects the Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have acted in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of securities pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan, including the issuance of securities thereunder. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting such Exculpated Parties from liability.

Section 10.9 *Injunction Related to Releases and Exculpation.*

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to the Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in the Plan or the Confirmation Order.

Relevant Definitions Related to Release and Exculpation Provision:

Exculpated Parties means, collectively, and in each case in their capacities as such during the Chapter 11 Cases, (i) the Debtors, (ii) the Reorganized Debtors, (iii) any statutory committee appointed in the Chapter 11 Cases, (iv) the First Lien Agent, (v) the Second Lien Agent, (vi) CIT Bank, N.A., (vii) the Ad Hoc First Lien Group and its current and former members, (viii) the Ad Hoc Crossholder Group and its current and former members, (ix) the DIP Lenders; (x) the DIP Agent; (xi) the DIP Escrow Agent, (xii) with respect to each of the foregoing Persons

in clauses (i) through (xi), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, *provided however* notwithstanding the foregoing, if the Sponsor Side Agreement is not in effect on the Effective Date, the definition of Exculpated Party shall not include, in each case, regardless of whether such party or entity would otherwise meet the definition of Exculpated Party: (x) the Sponsor; (y) the Evergreen Skills Entities; or (z) with respect to each of the foregoing (x)-(y), their respective current and former affiliates (other than the Company), subsidiaries (other than the Company), members, managers, equity owners, employees, professionals, consultants, directors and officers (in each case solely in their respective capacities as such.

Released Parties means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the First Lien Agent, (iv) the Second Lien Agent, (v) CIT Bank, N.A., (vi) the Ad Hoc First Lien Group and its current and former members, (vii) the Ad Hoc Crossholder Group and its current and former members, (viii) the DIP Lenders; (ix) the DIP Agent; (x) the DIP Escrow Agent, (xi) with respect to each of the foregoing Persons in clauses (i) through (x), such Persons' predecessors, successors, assigns, subsidiaries, affiliates, managed accounts and funds, and all of their respective current and former officers and directors, principals, equity holders, members, partners, managers, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, investment managers, investment advisors, management companies, fund advisors, and other professionals, and such Persons' respective heirs, executors, estates, and nominees, in each case in their capacity as such, and (xii) the Sponsor, the Evergreen Skills Entities, and Sponsor Affiliates; *provided that* releases of the Evergreen Skills Entities shall not be effective until such time as is consistent with the Restructuring Transaction Steps; *provided further that*, notwithstanding any of the foregoing, if a Sponsor Material Breach has occurred or if the Sponsor Side Agreement has been terminated for any reason other than the occurrence of the Effective Date then the Sponsor, the Evergreen Skills Entities, and the Sponsor Affiliates shall not be Released Parties.

YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PREPACKAGED PLAN, INCLUDING THE RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MIGHT BE AFFECTED.

Section 341(a) Meeting

16. A meeting of creditors pursuant to section 341(a) of the Bankruptcy Code (the "**Section 341(a) Meeting**") has been deferred. **The Section 341(a) Meeting will not be convened if the Plan is confirmed by August 7, 2020.** If the Section 341(a) Meeting will be convened, the Debtors will file, serve on the parties on whom it served this notice and any other parties entitled to notice pursuant to the Bankruptcy Rules, and post on the website at www.kccllc.net/skillsoft not less than twenty-one (21) days before the date scheduled for such meeting, a notice of, among other things, the date, time, and place of the Section 341(a) Meeting. The meeting may be adjourned or continued from time to time by notice at the meeting, without further notice to creditors.

Dated: Wilmington, Delaware
_____, 2020

BY ORDER OF THE COURT

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TAB OO

Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief

Docket #0035 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**
	:	**Re: D.I. 34**

NOTICE OF FILING OF PROPOSED REDACTED VERSION OF THE MOTION OF DEBTORS FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE that, pursuant to Rule 9018-(d)(ii) of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware, the above-captioned debtors and debtors in possession have today filed the attached proposed redacted version of the *Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform Their Obligations Thereunder, Including Payment of the Upfront Amount, and (II) Granting Related*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

2011532200615000000000019

Relief [D.I. 34][2] with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801.

Dated: June 15, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo

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-and-

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Proposed Attorneys for Debtors
and Debtors in Possession

[2] Contemporaneously herewith, the Debtors have filed the *Motion of Debtors for Entry of an Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter Into Exclusivity Letter*.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):[2]

Relief Requested

1. By this Motion, pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), the Debtors request entry of an order (i) authorizing, but not directing, the Debtors to (a) enter into that certain letter agreement with

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] The facts and circumstances supporting the relief requested herein are set forth in the First Day Declaration (as defined herein) filed contemporaneously herewith. Capitalized terms used but not defined herein shall have the respective meanings ascribed to those terms in the First Day Declaration or the Prepackaged Plan (as defined herein), as applicable.

[redacted] (the "**Interested Party**"),[3] in substantially the form annexed hereto as **Exhibit B** (the "**Exclusivity Letter**"), and (b) perform their obligations thereunder, including payment of the Upfront Payment Amount (defined herein) subject to the terms and conditions of the Exclusivity Letter, and (ii) granting related relief.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. On June 14, 2020 (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to

[3] Contemporaneously with the filing of this Motion, the Debtors have filed the *Motion of Debtors for Entry of an Order Authorizing the Debtors to File under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter* seeking to seal the identity of the Interested Party as required by the terms of Exclusivity Letter.

sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. The Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

6. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"), filed contemporaneously herewith and incorporated herein by reference.

7. On June 12, 2020, the Debtors executed a restructuring support agreement (the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**" and, together with the First Lien Group and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

8. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its*

Affiliated Debtors (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

9. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously with the Petition

Date, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis.

Exclusivity Letter and Alternative Transaction

10. Prior to the Petition Date, and as part of the Debtors' pre-petition marketing process,[4] the Interested Party approached the Debtors about a potential sale transaction for substantially all of the Debtors' business (the "**Potential Transaction**" or an "**Alternative Transaction**"). However, in light of the Debtors' deteriorating liquidity position, immediate need to access the DIP Facility, and the need for the certainty of a fully-agreed reorganization path if the Debtors cannot consummate the Potential Transaction, the Debtors commenced these chapter 11 cases (with the support of the Consenting Creditors) and are seeking to implement the restructuring contemplated by the Restructuring Support Agreement.[5] Notwithstanding entry into the Restructuring Support Agreement, the Debtors, with the support of the Consenting Creditors, continued to negotiate in good faith with the Interested Party and have agreed to the terms of the Exclusivity Letter.[6] The Exclusivity Letter allows for the Debtors and Consenting Creditors to continue negotiating in good faith with the Interested Party and conduct diligence regarding a potential value-maximizing Alternative Transaction (as defined in the Restructuring Support Agreement). If the ongoing negotiations with the Interested Party are ultimately successful, the Debtors, with the support of the Consenting Creditors, may seek to amend the Plan and Disclosure Statement to reflect the Alternative Transaction prior to the Confirmation Hearing.[7]

4 *See* First Day Declaration ¶ 40.

5 *Id.* ¶ 12.

6 *Id.*

7 *Id.*

11. The key terms of the Exclusivity Letter are summarized below:[8]

Item	Terms
Exclusivity	From June 15, 2020 until the earlier to occur of (x) midnight (Eastern time) on August 13, 2020, and (y) the execution of a definitive agreement between Pointwell and/or its affiliates and the Interested Party relating to the Potential Transaction (the "**Definitive Transaction Agreement**"), Pointwell shall not and shall not authorize or permit any officer, director, employee or affiliate of, or any investment banker, attorney or other agent, advisor or representative of, Pointwell or its direct or indirect subsidiaries to, (a) make or negotiate any offer or proposal to, (i) sell or otherwise transfer any material equity interest in the Company or all or any substantial portion of its or their respective assets to any third party, or (ii) enter into any definitive agreement with respect to, or otherwise effect, any recapitalization, refinancing, or other similar transaction involving the Company (any of the foregoing hereafter referred to as an "**Alternative Proposal**"), (b) solicit or encourage the initiation of (including by way of furnishing information) any inquiries or proposals regarding any Alternative Proposal, (c) have any discussions with or provide any non-public information or data to any third party that would encourage, facilitate or further any effort or attempt to make or implement an Alternative Proposal, or (d) enter into any agreement with respect to any Alternative Proposal made by any third party. For the avoidance of doubt, (i) a restructuring contemplated by the terms of that certain Restructuring Support Agreement, dated as of June 12, 2020, by and between Pointwell and certain of its subsidiaries and the lenders party thereto (the "**RSA**") shall not constitute an Alternative Proposal (the "**Consensual Transaction**"), and (ii) the foregoing shall not prohibit the Company from having any discussions with, or providing any non-public information or data to, the Consenting Creditors (as defined in the RSA).
Accounting and Financial Work	From June 15, 2020 until the earlier to occur of (x) midnight (Eastern time) on August 13, 2020, and (y) the execution of the Definitive Transaction Agreement, Pointwell shall, and shall cause its affiliates to, use commercially reasonable efforts and work diligently and in good faith to advance and finalize as soon as reasonably practicable following June 15, 2020 all accounting and financial work that the Interested Party and Pointwell mutually determine to be necessary to be included in a proxy statement under applicable securities law and shall keep the Interested Party apprised of the status of such matters on a reasonably current basis and from time to time at the reasonable request of the Interested Party.
Fiduciary Out and Termination	Notwithstanding any provisions to the contrary in the Exclusivity Letter, (1) in order to fulfil the fiduciary obligations of Pointwell's

[8] This summary is qualified by reference to the Exclusivity Letter, which is attached hereto as **Exhibit B**.

Item	Terms
	officers and directors, if Pointwell receives a bona fide unsolicited proposal or offer for an Alternative Proposal from other parties after June 15, 2020, which Alternative Proposal did not result from a breach of this letter agreement (including this paragraph), Pointwell may, subject to compliance with the following proviso, provide due diligence materials and/or analyze and/or negotiate only such Alternative Proposal, without breaching this letter agreement; *provided*, that Pointwell shall notify the Interested Party in writing promptly (and, in any event within 48 hours) of the receipt by Pointwell or any of its subsidiaries, or any of its or their respective representatives, of any bona fide inquiries, proposals or offers, requests for information or requests for discussions or negotiations regarding any Alternative Proposal, specifying the material terms and conditions thereof and the identity of such party, (2) Pointwell may terminate this letter agreement (without breaching this letter agreement) upon two (2) business days' notice to the Interested Party to enter into a definitive agreement with respect to such Alternative Proposal; *provided* that if at or prior to the time of Pointwell receives such Alternative Proposal, Pointwell and the Interested Party have mutually agreed that the Definitive Transaction Agreement is in final form, then (A) Pointwell shall only be permitted to provide due diligence materials and/or analyze and/or negotiate such Alternative Proposal, and/or terminate this letter agreement, in each case, without breaching this letter agreement, if the Board of Directors of Pointwell determines in good faith that such Alternative Proposal constitutes, or would reasonably be expected to lead to, a Superior Proposal, and (B) Pointwell shall provide the Interested Party with five (5) business days' notice of its intention to terminate this agreement in light of a Superior Proposal and during such five (5) business days' period Pointwell shall negotiate in good faith with the Interested Party regarding any revisions to the Potential Transaction, and if following such good faith negotiations, the Board of Directors of Pointwell determines in good faith, after consultation with its outside legal counsel and a financial advisor of nationally recognized reputation, that, in light of such Superior Proposal and taking into account any revised terms proposed by the Interested Party, such Superior Proposal continues to constitute a Superior Proposal and that the continued performance under this letter agreement would be inconsistent with the exercise of its fiduciary duties under applicable law, Pointwell may terminate this letter agreement without breaching this letter agreement and (3) if [redacted] publicly announces or enters into a transaction to acquire a third party other than the Company and the Interested Party fails to designate an alternative purchasing entity within five (5) business days that is reasonably acceptable to Pointwell, then Pointwell may terminate this letter agreement upon written notice to the Interested Party; *provided*, that if during such five (5) business day period the Interested Party designates an alternative purchasing entity that is both (x) an affiliate of the Interested Party and advised by [redacted] and (y) a special

Item	Terms
	purpose acquisition company with available funds of no less than $700,000,000 (on a pro-forma basis and without taking into account any required redemptions pursuant to the organizational documents of such alternative purchasing entity) then Pointwell may not terminate this letter agreement pursuant to this clause (3) (each of (2) or (3) (subject to the proviso therein), a "**Pointwell Termination Event**").
"Superior Proposal"	For purposes of the Exclusivity Letter, the term "**Superior Proposal**" means any binding bona fide unsolicited written offer which did not result from a breach of this letter agreement by any person (other than the Interested Party), that, if consummated, would result in such person acquiring, directly or indirectly, the majority of the equity interests of Pointwell or all or substantially all the assets of Pointwell, and which offer, in the reasonable good faith judgment of the Board of Directors of Pointwell (after consultation with a financial advisor of nationally recognized reputation and outside legal counsel), is more favorable to the Pointwell stakeholders than the Potential Transaction, taking into account all of the terms and conditions of such proposal and the Potential Transaction (including any changes to the terms of the Potential Transaction proposed by the Interested Party in response to such Superior Proposal or otherwise), including the financial, legal, regulatory, timing and other aspects of such proposal.
Payment for Expenses	To assist and encourage the Interested Party to expeditiously pursue and consummate the Potential Transaction, Skillsoft agrees on the first business day following the date upon which the parties enter into the Definitive Transaction Agreement, Skillsoft shall advance (or cause one or more of Skillsoft's direct or indirect subsidiaries to advance) to the Interested Party $2,000,000.00 (the "**Upfront Payment Amount**"), which shall be applied to the reimbursement of the Interested Party for reasonable, documented and out-of-pocket fees and expenses to be incurred by the Interested Party in connection with the Interested Party's diligence, structuring, negotiation and documentation of the Potential Transaction and/or compliance with applicable securities laws with respect to the Potential Transaction (collectively, the "**Expenses**"); *provided*, that, except as may otherwise be provided in the Definitive Transaction Agreement, if the Potential Transaction fails to close (including if the Definitive Transaction Agreement is terminated or upon the occurrence of a toggle event to the Consensual Transaction) or a Pointwell Termination Event occurs and the Expenses incurred through the date of termination are less than the Upfront Payment Amount, the Interested Party shall promptly (and in any event within two (2) business days) refund to Skillsoft the difference between such actual Expenses and the Upfront Payment Amount.
Confidentiality	Pointwell and/or its affiliates shall keep the Interested Party's name, identity any other identifying information strictly confidential and shall not disclose any such information to any other Person except to the extent required by Law, in which event Pointwell shall provide

Item	Terms
	the Interested Party with prompt written notice to the extent not legally prohibited of such requirement so that the Interested Party may seek a protective order or other appropriate remedy to afford such information confidential treatment.
Damages upon Breach	In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this letter agreement, the maximum amount of liability for monetary damages that the breaching party may be subject to shall not exceed $2,000,000.00. Nothing in the Exclusivity Letter shall purport to limit the right of the aggrieved party thereunder to specific performance and injunctive or other equitable relief of its rights under this letter agreement.
Commitment to a Potential Transaction	The Exclusivity Letter does not constitute a commitment, a contract to provide a commitment or an offer to enter into a contract regarding the Potential Transaction. Only a fully executed definitive written agreement will constitute a binding and enforceable agreement regarding the Potential Transaction.

Relief Requested Should Be Granted

12. Entry into the Exclusivity Letter to preserve optionality for a potential value-maximizing transaction is a sound exercise of the Debtors' business judgment in these chapter 11 cases. Critically, the Debtors' entry into the Exclusivity Letter is also supported by the Consenting Creditors.

13. Section 363(b) of the Bankruptcy Code authorizes a debtor, with court approval, to enter into transactions and use property of the estate outside of the ordinary course of business. *See* 11 U.S.C. § 363(b)(1). To approve the use of assets outside the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, courts in the Third Circuit require only that the transaction has a "sound business purpose" and the debtor proposes it in good faith. *See, e.g.*, *Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999).

14. To determine whether the business judgment test is met, a court examines "whether a reasonable business person would make a similar decision under similar circumstances." *In re Exide Techs., Inc.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006), *rev'd on other*

grounds, 607 F.3d 957 (3d Cir. 2010). If a debtor articulates a valid business justification under section 363(b) of the Bankruptcy Code, a presumption arises that the debtor made its decision on an informed basis, in good faith, and in the honest belief that the action was in the best interest of the debtor's estate. *See, e.g.*, *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (Bankr. S.D.N.Y. 1992) (citing *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Accordingly, a court should approve a debtor's business decision unless that decision is the product of bad faith or gross abuse of discretion. *See id.*

15. In addition, under section 105(a) of the Bankruptcy Code a bankruptcy court may issue any "order, process, or judgment that is necessary to carry out the provisions" of the Bankruptcy Code. 11 U.S.C. § 105(a). This allows a bankruptcy court to fashion orders necessary to further the purposes of other sections of the Bankruptcy Code. *See, e.g.*, *In re Combustion Eng'g, Inc.*, 391 F.3d 190, 225, 236 (3d Cir. 2004); *In re Padilla*, 389 B.R. 409, 425 (E.D. Pa. 2008) ("[A] court may invoke § 105(a) if the equitable remedy utilized is demonstrably necessary to preserve a right elsewhere provided in the Code. . . .").

16. Here, entry into the Exclusivity Letter is a sound exercise of the Debtors' business judgment because doing so preserves optionality for the Debtors to pursue a potential value-maximizing Alternative Transaction. Prior to the Petition Date, the Debtors conducted a market test for the sale of the Debtors' business. At the conclusion of those efforts, the only viable option forward was through the financial restructuring embodied in the Prepackaged Plan. Around the same time, the Interested Party came forward regarding a potential sale of the Debtors' assets but the parties were not able to move towards a definitive transaction in the time necessary to meet the Debtors' liquidity needs. Accordingly, and as described in the First Day Declaration, the Debtors and the Consenting Creditors entered into the Restructuring Support Agreement, the

Debtors commenced solicitation with respect to the Prepackaged Plan, and the Debtors commenced these chapter 11 cases to effectuate a consensual financial restructuring. That notwithstanding, the Interested Party remains interested in pursuing an Alternative Transaction that could maximize value for the Debtors' estates and their stakeholders, and the Consenting Creditors support the Debtors' pursuit of such transaction.

17. In light of the pre-petition marketing efforts and consensual restructuring offer embodied in the Prepackaged Plan, the Debtors submit that granting the Interested Party exclusivity is reasonable and necessary in order to preserve the option to pursue an Alternative Transaction for the benefit of the Debtors and their stakeholders. Further, the Interested Party has indicated that it will not pursue further negotiations or diligence without the Debtors' entry into the Exclusivity Letter. In addition, the Consenting Creditors support the Debtors' efforts to preserve a potential Alternative Transaction by entering into the Exclusivity Letter. The Debtors therefore submit entering into the Exclusivity Letter to allow negotiations to continue with respect to a potential Alternative Transaction for the benefit of their stakeholders is a sound exercise of their business judgment.

18. In addition, the Debtors' performance of their obligations under the Exclusivity Letter, including the obligation to pay the Upfront Payment Amount, if required, is a sound exercise of the Debtors' business judgment because doing so is an inducement for the Interested Party to continue negotiating and conducting diligence with respect to an Alternative Transaction. Under the terms of the Exclusivity Letter, the Debtors are obligated to pay the Upfront Payment Amount to the Interested Party only if the Debtors and the Interested Party execute a definitive agreement for the Potential Transaction. The Debtors therefore submit that it is a sound exercise of their business judgment to perform their obligations under the Exclusivity

Letter, including payment of the Upfront Payment Amount if required. Importantly, the Consenting Creditors support the relief requested herein, including approval of payment of the Upfront Payment Amount on the terms and conditions in the Exclusivity Letter, in order to preserve the optionality and potential benefits of an Alternative Transaction.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

19. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" before twenty-one days after the filing of the petition. Fed. R. Bankr. P. 6003(b). Here, the Exclusivity Letter requires the Debtors to seek this Court's approval of the letter upon the filing of these chapter 11 cases. Failure to do so could result in the Interested Party withdrawing from the Exclusivity Letter and stopping negotiations for the Alternative Transaction altogether, which could result in the loss of a potential value-maximizing opportunity for the Debtors' estates. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Bankruptcy Rules 6004(a) and (h)

20. To implement the foregoing successfully, the Debtors request that the Court find that notice of the Motion is adequate under Bankruptcy Rule 6004(a) under the circumstances, and waive the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify finding that the notice requirements under Bankruptcy

Rule 6004(a) have been satisfied and to grant a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

21. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**"), Milbank LLP, 10 Gresham St., London EC2V 7JD (Attn: Yushan Ng, Esq. and Sarah Levin, Esq.) and 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) the Securities and Exchange Commission; (xi) counsel to the Interested Party; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 15, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo

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-and-

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. ___**

ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, for entry of an order (i) authorizing, but not directing, the Debtors to (a) enter into the Exclusivity Letter with the Interested Party, and (b) perform their obligations thereunder, including paying the Upfront Payment Amount on the terms and conditions in the Exclusivity Letter, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to those terms in the Motion.

§§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized, but not directed, to enter into the Exclusivity Letter with the Interested Party and to perform their obligations thereunder, including paying the Upfront Payment Amount subject to the terms and conditions of the Exclusivity Letter.

3. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

4. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

5. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Exhibit B

Exclusivity Letter

(Filed Under Seal)

TAB PP

Order (I) Authorizing the Debtors to (A) Enter into an Exclusivity Letter with the Interested Party, and (B) Perform their Obligations thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief

Docket #0083 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 34**

ORDER (I) AUTHORIZING THE DEBTORS TO (A) ENTER INTO AN EXCLUSIVITY LETTER WITH THE INTERESTED PARTY, AND (B) PERFORM THEIR OBLIGATIONS THEREUNDER, INCLUDING PAYMENT OF THE UPFRONT PAYMENT AMOUNT, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code, for entry of an order (i) authorizing, but not directing, the Debtors to (a) enter into the Exclusivity Letter with the Interested Party, and (b) perform their obligations thereunder, including paying the Upfront Payment Amount on the terms and conditions in the Exclusivity Letter, and (ii) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to those terms in the Motion.

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§§ 157(a)–(b) and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having held a hearing to consider the relief requested in the Motion (the "**Hearing**"); and upon the First Day Declaration and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Rule 6003 of the Federal Rules of Bankruptcy Procedure, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor

IT IS HEREBY ORDERED THAT

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized, but not directed, to enter into the Exclusivity Letter with the Interested Party and to perform their obligations thereunder, including paying the Upfront Payment Amount subject to the terms and conditions of the Exclusivity Letter.

3. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

4. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a) and Local Rule 9013-1(m).

5. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

6. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB QQ

Motion of Debtors for Entry of an Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information In the Motion to Enter Into Exclusivity Letter

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL AND REDACT CERTAIN IDENTITY INFORMATION IN THE MOTION TO ENTER INTO EXCLUSIVITY LETTER

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors request authority to file under seal and to redact information in the *Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Enter Into an Exclusivity Letter*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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with the Interested Party and (B) Perform Their Obligations Thereunder, Including Payment of the Upfront Payment Amount, and (II) Granting Related Relief (the "**Exclusivity Letter Motion**"), filed contemporaneously herewith.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

Background

5. On June 14, 2020 (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. The Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien lenders (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to those terms in the First Day Declaration or the Exclusivity Letter Motion, as applicable.

sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously with the Petition Date, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis.

11. Prior to the Petition Date, and as part of the Debtors' pre-petition marketing process, the Interested Party approached the Debtors about a potential sale transaction for substantially all of the Debtors' business (the "**Potential Transaction**" or an "**Alternative Transaction**"). However, in light of the Debtors' deteriorating liquidity position, immediate need to access the DIP Facility, and the need for the certainty of a fully-agreed reorganization path if the Debtors cannot consummate the Potential Transaction, the Debtors commenced these chapter 11 cases (with the support of the Consenting Creditors) and are seeking to implement the restructuring contemplated by the Restructuring Support Agreement. Notwithstanding entry into the Restructuring Support Agreement, the Debtors, with the support of the Consenting Creditors, continued to negotiate in good faith with the Interested Party and have agreed to the terms of the Exclusivity Letter. The Exclusivity Letter allows for the Debtors and Consenting Creditors to continue negotiating in good faith with the Interested Party and conduct diligence regarding a potential value-maximizing Alternative Transaction (as defined in the Restructuring Support Agreement). If the ongoing negotiations with the Interested Party are ultimately successful, the Debtors, with the support of the Consenting Creditors, may seek to amend the Plan and Disclosure Statement to reflect the Alternative Transaction prior to the Confirmation Hearing.

12. As more fully set forth in the Exclusivity Letter Motion, the Exclusivity Letter requires that the Debtors "shall keep the Interested Party's name, identity any other identifying information strictly confidential and shall not disclose any such information to any other Person except to the extent required by Law." Exclusivity Letter Motion ¶ 11. The Debtors have been informed that the confidentiality of the identity of the Interested Party is a condition for the Interested Party's agreement to continue to pursue a potential value-maximizing transaction

with the Debtors. Accordingly, pursuant to the Exclusivity Letter, the Debtors agreed to seek the relief requested in this motion to file the identity of the Interested Party under seal.

Basis for Relief

13. Section 107(b) of the Bankruptcy Code is a codified exception to the general rule of access to the court and protects entities from potential harm caused by the public disclosure of confidential information. Specifically, section 107(b) provides, in relevant part:

> (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may –
>
> (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .

11 U.S.C. § 107(b).

14. Bankruptcy Rule 9018 and Local Rule 9018-1 establish the procedure by which a party in interest may obtain a protective order authorizing the filing of a document under seal pursuant to section 107(b) of the Bankruptcy Code. Bankruptcy Rule 9018 provides, in relevant part, "[o]n motion or its own initiative, with or without notice, the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information." Fed. R. Bank. P. 9018.

15. Once the court determines that a party in interest is seeking protection of information that falls within one of the categories enumerated in section 107(b) of the Bankruptcy Code, "the court is required to protect a requesting interested party and has no discretion to deny the application." *Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994).

16. Courts have held that protection under section 107(b) must be granted if the information sought to be protected is commercial information, and significantly, that commercial

information need not rise to the level of a trade secret to be entitled to protection. *See, e.g., Orion Pictures,* 21 F.3d at 28 (finding that the use of the disjunctive in section 107(b)(1) "neither equates 'trade secret' with 'commercial information' nor requires the latter to reflect the same level of confidentiality as the former"). Furthermore, in contrast with Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate "good cause." *Id.* Nor does section 107(b) of the Bankruptcy Code require a finding of "extraordinary circumstances or compelling need." *Id.* at 27.

17. Rather, a party seeking the protection of section 107(b) need only demonstrate that the information is "confidential" and "commercial" in nature. *Id.*; *see also In re Glob. Crossing Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (recognizing that the purpose of Bankruptcy Rule 9018 is to "protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury"). Once the moving party establishes that the subject information qualifies as "commercial information" under section 107(b)(1), the Bankruptcy Code mandates that this information be protected from disclosure. *See id.*

Relief Requested Should be Granted

18. Sufficient cause exists here for the Debtors to file under seal and to redact those portions of the Exclusivity Letter Motion containing the identity of the Interested Party (the "**Commercial Information**"), whose identity has not yet been publicly disclosed and, pursuant to the terms of the Exclusivity Letter, must not be disclosed and must remain confidential.

19. The Debtors respectfully submit that sealing the identity of the Interested Party is warranted. As set forth above, the identity of the Interested Party constitutes confidential commercial information under section 107(b) of the Bankruptcy Code. Public disclosure of the name of the Interested Party would violate the terms of the Exclusivity Letter and severely hinder the viability of the Alternative Transaction, eliminating a potential value-maximizing transaction

to the detriment of the Debtors' estates and all of their creditors. In addition, the Interested Party has asserted its identity is commercially sensitive information and if disclosed could cause harm to the Interested Party. To that end, sealing the identity of the Interested Party is necessary to preserve the Debtors' ability to continue to pursue the Alternative Transaction with the Interested Party. *See, e.g., In re Glob. Crossing, Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (finding that the purpose of Bankruptcy Rule 9018 is to "protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury").

20. To protect commercially sensitive and confidential information related to the potential Alternative Transaction, and at the same time to ensure appropriate disclosure in these chapter 11 cases, the Debtors request authority to file under seal and redact those few portions of the Exclusivity Letter Motion that contain the identity of the Interested Party. The Debtors have endeavored to limit the scope of the redactions as much as possible while maintaining confidentiality.

21. Accordingly, the Debtors respectfully submit that good cause exists for the Court to grant them leave to file under seal and to redact those narrow portions of the Exclusivity Letter Motion containing the Commercial Information.

22. The Debtors will provide an un-redacted version of the Exclusivity Letter Motion to the Court pursuant to Local Rule 9018-1 and will provide an un-redacted version of the Exclusivity Letter Motion, on a confidential, professionals' eyes only basis, to: (a) the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"); (b) counsel to any statutory committee appointed in these chapter 11 cases; (c) counsel to the Ad Hoc First Lien Group; and (d) counsel to the Ad Hoc Crossholder Group (collectively, the "**Receiving Parties**").

In addition, consistent with Local Rule 9018-1(d), the Debtors have filed a redacted version of the Exclusivity Letter Motion on the Court's docket under a "Notice of Filing."

Compliance with Local Rule 9018-1(d)(iv)

23. To the best of the knowledge, information and belief of the undersigned proposed counsel to the Debtors, the Exclusivity Letter Motion contains information subject to the Confidentiality Rights (as defined in Local Rule 9018-1(d)(iii)) of the Interested Party and potentially the Debtors as well. The undersigned proposed counsel to the Debtors conferred in good faith with counsel to the Interested Party, and reached an agreement concerning the information in the Exclusivity Letter Motion that must be redacted and must remain sealed.

Notice

24. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 10 Gresham St., London EC2V 7JD (Attn: Yushan Ng, Esq. and Sarah Levin, Esq.) and 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel

Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; (xii) counsel to the Interested Party; and (xiii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

25. The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 15, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo

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-and-

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**
	:	**Re: D.I. ___**

ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL AND REDACT CERTAIN IDENTITY INFORMATION IN THE MOTION TO ENTER INTO EXCLUSIVITY LETTER

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Exclusivity Letter Motion containing the Commercial Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file the Exclusivity Letter Motion under seal and to redact the Commercial Information in the publicly-filed versions of the Exclusivity Letter Motion. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, absent further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide the un-redacted version of the Exclusivity Letter Motion to the Court and on a confidential, professional eyes' only basis to: (i) the U.S. Trustee; (ii) counsel to any statutory committee appointed in these

chapter 11 cases; (iii) counsel to the Ad Hoc First Lien Group; and (iv) counsel to the Ad Hoc Crossholder Group.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Exclusivity Letter Motion, other than the Court or the U.S. Trustee, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Exclusivity Letter Motion, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Exclusivity Letter Motion or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

TAB RR

Order Authorizing the Debtors to File Under Seal and Redact Certain Identity Information in the Motion to Enter into Exclusivity Letter

Docket #0084 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 36**

ORDER AUTHORIZING THE DEBTORS TO FILE UNDER SEAL AND REDACT CERTAIN IDENTITY INFORMATION IN THE MOTION TO ENTER INTO EXCLUSIVITY LETTER

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Exclusivity Letter Motion containing the Commercial Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

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requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file the Exclusivity Letter Motion under seal and to redact the Commercial Information in the publicly-filed versions of the Exclusivity Letter Motion. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, absent further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide the un-redacted version of the Exclusivity Letter Motion to the Court and on a confidential, professional eyes' only basis to: (i) the U.S. Trustee; (ii) counsel to any statutory committee appointed in these

chapter 11 cases; (iii) counsel to the Ad Hoc First Lien Group; and (iv) counsel to the Ad Hoc Crossholder Group.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Exclusivity Letter Motion, other than the Court or the U.S. Trustee, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Exclusivity Letter Motion, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Exclusivity Letter Motion or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB SS

Motion of Debtors pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 for Entry of an Order authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal

Docket #0032 Date Filed: 6/15/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 FOR ENTRY OF AN ORDER AUTHORIZING THE DEBTORS TO FILE THE PROPOSED DEBTOR-IN-POSSESSION FINANCING FEE LETTERS UNDER SEAL

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent as follows in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**"), the Debtors request entry of an order (a) authorizing the Debtors to file under seal and to

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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redact certain portions of the Fee Letters (as defined below) and (b) directing that the Fee Letters shall remain under seal and confidential and not be made available to any person without the consent of the Debtors and the DIP Agent Parties (as defined below), unless otherwise provided by order of the Court.

2. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

Background

5. On June 14, 2020 (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. The Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018* (the "**Solicitation Motion**"), filed contemporaneously with the Petition Date, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize

the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

11. Contemporaneously herewith, the Debtors filed the *Motion of Debtors for Entry of Orders (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**DIP Motion**")[3] seeking authorization to incur postpetition financing in an aggregate principal amount of $60 million (the "**DIP Facility**"), provided by certain of the Debtors' prepetition secured lenders (the "**DIP Lenders**"). Pursuant to the DIP Facility, Wilmington Savings Fund Society, FSB shall serve as the administrative agent and collateral agent (the "**DIP Agent**"), and as escrow agent (the "**DIP Escrow Agent**").

12. In connection with the proposed DIP Facility, the Debtors will enter into (i) that certain *Fee Letter*, by and between the Debtors and the DIP Agent (the "**DIP Agent Fee Letter**"), and (ii) that certain *Fee Letter*, by and between the Debtors and the DIP Escrow Agent (the "**DIP Escrow Agent Letter**" and together with the DIP Agent Fee Letter, the "**Fee Letters**"). Each of the Fee Letters is annexed as **Exhibit 1** and **Exhibit 2**, respectively, to the *Notice of Filing Confidential Proposed Debtor-In-Possession Financing Fee Letters Under Seal* filed contemporaneously herewith.

13. Due to the sensitive and confidential nature of the commercial information contained in the Fee Letters—including those portions of the Fee Letters that set forth certain fee

[3] Capitalized terms used but not defined in this Motion have the respective meanings ascribed to such terms in the DIP Motion.

amounts and information about methodologies for calculating fees with respect to the proposed DIP Facility (the "**Commercial Information**")—the Debtors request authorization to seal the Confidential Information.

Basis for Relief

14. Section 107(b) of the Bankruptcy Code is a codified exception to the general rule of access to the court and protects entities from potential harm caused by the public disclosure of confidential information. Specifically, section 107(b) provides, in relevant part:

> (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—
>
> (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .

11 U.S.C. § 107(b).

15. Bankruptcy Rule 9018 and Local Rule 9018-1 establish the procedures by which a party in interest may obtain a protective order authorizing the filing of a document under seal pursuant to section 107(b) of the Bankruptcy Code. Bankruptcy Rule 9018 provides, in relevant part, "[o]n any motion or its own initiative, with or without notice, the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development or commercial information." Fed. R. Bankr. P. 9018.

16. Once a court determines that a party in interest is seeking protection of information that falls within one of the categories enumerated in section 107(b) of the Bankruptcy Code, "the court is *required* to protect a requesting interested party and has no discretion to deny the application." *Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994) (emphasis in original).

17. Courts have held that protection under section 107(b) must be granted if the information sought to be protected is "commercial information," and, significantly, that commercial information need not rise to the level of a trade secret to be entitled to protection. *See, e.g.*, *Orion Pictures*, 21 F.3d at 28 (finding that the use of the disjunctive in section 107(b)(1) "neither equates 'trade secret' with 'commercial information' nor requires the latter to reflect the same level of confidentiality as the former"). Furthermore, in contrast with Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate "good cause." *Id.* Nor does section 107(b) of the Bankruptcy Code require a finding of "extraordinary circumstances or compelling need." *Id.* at 27.

18. Rather, a party seeking the protection of section 107(b) need only demonstrate that the information is "confidential" and "commercial" in nature. *Id.*; *see also In re Glob. Crossing Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (recognizing that the purpose of Bankruptcy Rule 9018 is to "protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury"). Once the moving party establishes that the subject information qualifies as "commercial information" under section 107(b)(1), the Bankruptcy Code mandates that this information be protected from disclosure. *See id.*

Relief Requested Should be Granted

19. Cause exists to redact the Commercial Information, including fees and certain other commercial information contained in the Fee Letters, because such information constitutes "commercial information" within the meaning of section 107(b) of the Bankruptcy Code, insofar as it concerns the terms of a private, confidential commercial contract between the Debtors and each of the DIP Agent and the DIP Escrow Agent, respectively, that contains sensitive information relating to pricing. Indeed, by their own terms, the Fee Letters are confidential in

nature. Further, in accordance with industry-wide customs, the DIP Agent and the DIP Escrow Agent treat information such as the Commercial Information as highly sensitive and generally do not make information such as the Commercial Information available to competitor financial institutions, much less to the public.

20. If the Commercial Information were disclosed, the disclosure would cause harm to the Debtors, the DIP Agent, and the DIP Escrow Agent. In fact, given the intense competition in the investment banking and lending industries, disclosure of the Commercial Information could heavily constrain the ability of the DIP Agent, the DIP Escrow Agent, and their respective affiliates to negotiate their fees in future transactions, putting them at a strategic disadvantage relative to their competitors and causing commercial injury. Because debtor-in-possession financing is only a small fraction of all syndicated financings arranged by each of the DIP Agent and the DIP Escrow Agent, requiring them to disclose the Commercial Information in this context when such disclosure is not required in other contexts could have a "chilling effect" in these and future cases by discouraging the DIP Agent, the DIP Escrow Agent, and other competitor institutions from extending debtor-in-possession facilities on terms favorable to debtors. In that regard, the DIP Agent and the DIP Escrow Agent's ability to maintain the confidentiality of their pricing methodology is paramount to each of their ability to provide postpetition financing to these and other chapter 11 debtors.

21. Based on the foregoing, absent protection of their Commercial Information, the DIP Agent and DIP Escrow Agent would be placed at a competitive disadvantage, and the Debtors' ability to obtain postpetition financing from the DIP Lenders could be undermined. Maintaining the confidentiality of the Commercial Information set forth in the Fee Letters enables

the DIP Agent and the DIP Escrow Agent to remain competitive and willing to arrange and extend postpetition financing to these and other chapter 11 debtors.

22. To balance the need for confidentiality with disclosure, the Debtors' proposed redactions are limited in scope. The Debtors propose to redact only those portions of each of the Fee Letters that contain highly sensitive, commercial information regarding the specific terms and conditions that could reveal either the DIP Agent's or the DIP Escrow Agent's fees or their methodologies for calculating fees.

23. Courts in this district have granted similar requests to seal or redact portions of postpetition or exit financing documents—such as fee letters in connection with debtor-in-possession financing—and the lenders' or agents' commercial information contained therein. *See, e.g.*, *In re Bumble Bee Parent, Inc.*, No. 19-12502 (LSS) (Bankr. D. Del. Nov. 25, 2019) [D.I. 71] (authorizing debtors to file under seal debtor-in-possession financing fee letters); *In re Hexion Holdings LLC*, No. 19-10684 (KG) (Bankr. D. Del. Apr. 29, 2019) [D.I 227] (same); *In re CTI Foods, LLC*, No. 19-10497 (CSS) (Bankr. D. Del. Mar. 12, 2019) [D.I. 68] (same); *In re Checkout Holding Corp.*, No. 18-12794 (KG) (Bankr. D. Del. Jan. 17, 2019) [D.I. 221] (same).

24. Accordingly, the Debtors submit that good cause exists for the Court to grant them leave to file under seal and to redact those portions of the Fee Letters containing the Commercial Information.

25. The Debtors will provide un-redacted versions of the Fee Letters to the Court pursuant to Local Rule 9018-1 and will provide un-redacted versions of the Fee Letters on a confidential, professionals' eyes only basis, to (a) the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") and (b) counsel to any statutory committee appointed in these chapter 11 cases (collectively, the "**Receiving Parties**"). In addition, consistent with Local

Rule 9018-(d), redacted versions of the Fee Letters were separately filed on the Court's docket under a "Notice of Filing."

Compliance with Local Rule 9018-1(d)(ii)

26. To the best of the knowledge, information, and belief of the undersigned proposed counsel to the Debtors, the Fee Letters contain commercial information subject to the Confidentiality Rights (as defined in Local Rule 9018-1(d)(iii)) of the DIP Agent or the DIP Escrow Agent. The undersigned proposed counsel to the Debtors, counsel to the DIP Agent, and counsel to the DIP Escrow Agent have conferred in good faith and reached an agreement concerning what information contained in the Fee Letters must remain sealed.

Notice

27. Notice of this Motion will be provided to (i) the U.S. Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq.); (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq., and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to the DIP Agent and the DIP Escrow Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn:

Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

28. The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 15, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Joint Administration Requested)**
	:	**Re: D.I. ___**

ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018, AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE THE PROPOSED DEBTOR-IN-POSSESSION FINANCING FEE LETTERS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Fee Letters, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1, to file those certain portions of the Fee Letters containing Commercial Information under seal and to redact such Commercial Information in the Fee Letters. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Fee Letters to the Court and shall provide an un-redacted version of the Fee Letters to the Receiving Parties on a confidential, "professionals' eyes only" basis.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Fee Letters, other than the Court or the Office of the United States Trustee for the District of Delaware, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Fee Letters, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Fee Letters or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

TAB TT

Order pursuant to 11 U.S.C. §§ 105 and 107, FED. R. BANKR. P. 9018, and DEL. BANKR. L.R. 9018-1 authorizing the Debtors to File the Proposed Debtor-In-Possession Financing Fee Letters Under Seal

Docket #0087 Date Filed: 06/16/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
	:	
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– 11532 (MFW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**
	:	
	:	**Re: D.I. 32**

ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018, AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE THE PROPOSED DEBTOR-IN-POSSESSION FINANCING FEE LETTERS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact certain portions of the Fee Letters, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

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and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.

2. The Debtors are authorized pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1, to file those certain portions of the Fee Letters containing Commercial Information under seal and to redact such Commercial Information in the Fee Letters. The Commercial Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Fee Letters to the Court and shall provide an un-redacted version of the Fee Letters to the Receiving Parties on a confidential, "professionals' eyes only" basis.

4. Any party authorized, pursuant to this Order, to receive a copy of the un-redacted Fee Letters, other than the Court or the Office of the United States Trustee for the District of Delaware, (a) shall confirm to the Debtors (which confirmation may be made via electronic email), prior to receiving a copy of the un-redacted Fee Letters, that such party is bound by the terms of this Order and shall at all times keep the Commercial Information strictly confidential and shall not disclose the un-redacted Fee Letters or the Commercial Information (or the contents thereof) to any party whatsoever or (b) in the alternative, shall abide by any applicable non-disclosure or confidentiality agreement.

5. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: June 16th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

TAB UU

Motion of Debtors Pursuant to 11 U.S.C. §§ 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 for Entry of Interim and Final Orders Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal (II) the Commercial Information and the Personal Information in Future Filings Under Seal

Docket #0008 Date Filed: 6/14/2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" and, together with their non-Debtor affiliates, the "**Company**"), respectfully represent in support of this motion (the "**Motion**"):

Relief Requested

1. By this Motion, pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

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Rules"), the Debtors request authority to file under seal and to redact (a) certain portions of their consolidated creditor mailing matrix (the "**Creditor Matrix**") containing the Commercial Information and/or the Personal Information (each, as defined below) and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information (the "**Prospective Sealed Documents**" and together with the Creditor Matrix, the "**Sealed Documents**").

2. A proposed form of order granting the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the "**Proposed Interim Order**"), and a proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit B** (the "**Proposed Final Order**" and, together with the Proposed Interim Order, the "**Proposed Orders**").

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

Background

5. On the date hereof (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to

sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

6. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of their chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

7. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**First Day Declaration**"),[2] filed contemporaneously herewith and incorporated herein by reference.

8. On June 12, 2020, the Debtors executed a restructuring support agreement (as may be amended from time to time, the "**Restructuring Support Agreement**") with (i) a subset of members of an ad hoc group of first lien lenders (the "**Ad Hoc First Lien Group**"), which group collectively holds, manages, or controls approximately 51.28% in value of the First Lien Debt and approximately 6.36% of value of the Second Lien Debt; (ii) an ad hoc group of first and second lien creditors (the "**Ad Hoc Crossholder Group**" and, together with the members of the First Lien Group party to the Restructuring Support Agreement and any other First Lien Lenders or Second Lien Lenders that become party to the Restructuring Support Agreement, the "**Consenting Creditors**"), which group collectively holds, manages, or controls approximately 38.50% in value of the First Lien Debt and approximately 79.07% in value of the Second Lien Debt.

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

9. Contemporaneously with the Petition Date, the Debtors, with the support of the Consenting Creditors and in accordance with the Restructuring Support Agreement, began the solicitation of votes on their *Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* (the "**Prepackaged Plan**") through their *Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Skillsoft Corporation and Its Affiliated Debtors* pursuant to sections 1125 and 1126(b) of the Bankruptcy Code. Pursuant to the Restructuring Support Agreement, the Consenting Creditors have agreed to vote in favor of and support confirmation of the Prepackaged Plan which, upon implementation, provides for the Debtors to emerge from these chapter 11 cases substantially de-levered. Notably, the Prepackaged Plan provides that holders of general unsecured claims, including the Company's vendors, suppliers, and customers, will be unimpaired and receive payment of their prepetition claims and ongoing obligations in full.

10. The Debtors expect that the Prepackaged Plan will be accepted by all classes entitled to vote well in excess of the statutory thresholds specified in section 1126(c) of the Bankruptcy Code. Consistent with their obligations under the Restructuring Support Agreement and as set forth in more detail in the *Motion of Debtors for Order (I) Scheduling Combined Hearing to Consider (A) Approval of Disclosure Statement, (B) Approval of Solicitation Procedures and Forms of Ballots, and (C) Confirmation of Prepackaged Plan; (II) Establishing an Objection Deadline to Object to Disclosure Statement and Plan; (III) Approving the Form and Manner of Notice of Combined Hearing, Objection Deadline, and Notice of Commencement; (IV) Conditionally Waiting Requirement of Filing Statement of Financial Affairs and Schedules of Assets and Liabilities; (V) Approving Notice of Objection Procedures for the Assumption or Rejection of Executory Contracts and Unexpired Leases; (VI) Conditionally Waiving Requirement to Convene the Section 341 Meeting of Creditors; and (VII) Granting Related Relief Pursuant to*

Sections 105(a), 341, 521(a), 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 1007, 2002, 3017 and 3018 (the "**Solicitation Motion**"), filed contemporaneously herewith, the Debtors are seeking to move as quickly and as efficiently as possible through the chapter 11 process and emerge from these chapter 11 cases on an expedited basis. The relief requested in this Motion, as well as in the Debtors' other "first day" pleadings, is intended to help maximize the benefits of the Prepackaged Plan by minimizing any unnecessary disruption to the Debtors' business during this expedited timeline.

Basis for Relief

A. Commercial Information

11. Section 107(b) of the Bankruptcy Code is a codified exception to the general rule of access and protects entities from potential harm caused by the disclosure of confidential information. Specifically, section 107(b) provides, in relevant part:

> (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may –
>
> (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .

11 U.S.C. § 107(b).

12. Bankruptcy Rule 9018 and Local Rule 9018-1 establish the procedure by which a party in interest may obtain a protective order authorizing the filing of a document under seal pursuant to section 107(b) of the Bankruptcy Code. Bankruptcy Rule 9018 provides, in relevant part, "[o]n motion or its own initiative, with or without notice, the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information." Fed. R. Bank. P. 9018.

13. Once the court determines that a party in interest is seeking protection of information that falls within one of the categories enumerated in section 107(b) of the Bankruptcy Code, "the court is *required* to protect a requesting interested party and has no discretion to deny the application." *Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994) (emphasis in original).

14. Courts have held that protection under section 107(b) must be granted if the information sought to be protected is commercial information, and significantly, that commercial information need not rise to the level of a trade secret to be entitled to protection. *See, e.g., Orion Pictures*, 21 F.3d at 28 (finding that the use of the disjunctive in section 107(b)(1) "neither equates 'trade secret' with 'commercial information' nor requires the latter to reflect the same level of confidentiality as the former"). Furthermore, in contrast with Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate "good cause." *Id.* Nor does section 107(b) of the Bankruptcy Code require a finding of "extraordinary circumstances or compelling need." *Id.* at 27.

15. Rather, a party seeking the protection of section 107(b) need only demonstrate that the information is "confidential" and "commercial" in nature. *Id.*; *see also In re Glob. Crossing Ltd.*, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (recognizing that the purpose of Bankruptcy Rule 9018 is to "protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury"). Once the moving party establishes that the subject information qualifies as "commercial information" under section 107(b)(1), the Bankruptcy Code mandates that this information be protected from disclosure. *See id.* Moreover, this Court has previously held that the identities of a debtor's customers "are confidential commercial information as contemplated by section 107(b) of the United States Bankruptcy

Code." *In re Altegrity, Inc.*, No. 15-10226 (LSS), 2015 WL 10963572, at *4 (Bankr. D. Del. July 6, 2015); *see also Liveware Publ'g, Inc. v. Best Software, Inc.*, 252 F. Supp. 2d 74, 85 (D. Del. 2003) ("the customer list . . . is precisely the type of business information which is regularly accorded trade secret status"); *cf. In re Northstar Energy, Inc.*, 315 B.R. 425, 429–30 (Bankr. E.D. Tex. 2004) (authorizing sealing of the debtor's investor list because "disclosure would expose the heart and soul of the commercial operations of this Debtor"); *id.* at 430 ("Section 107(b) offers its protections for this very circumstance in order that such situated debtors need not face a Hopson's [sic] choice between the involuntary disclosure of vital business information as the *quid pro quo* of obtaining bankruptcy relief or exposure to economic hardships without the availability of bankruptcy relief in order to preserve the proprietary information upon which its business is based.").

B. Personal Information

16. Section 107(c)(1)(A) of the Bankruptcy Code provides that the Court, "for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property: [a]ny means of identification . . . contained in a paper filed, or to be filed in a case under" the Bankruptcy Code. *See* 11 U.S.C. § 107(c)(1)(A).

17. Further, for European entities, the European Union's (the "**EU**") General Data Protection Regulation (the "**GDPR**") imposes significant restrictions on processing of personal data of individuals who are in the European Union, which includes the collection, maintenance, use, and dissemination of personal data. "Personal data" includes both names and addresses of individuals. *See generally* General Data Protection Regulation (EU) 2016/679. If an organization subject to the GDPR is found to have disclosed information in breach of the GDPR,

the organization may be fined up to the greater of €20 million or, in the case of an undertaking, 4 percent of the total worldwide annual turnover of the preceding financial year. *See* General Data Protection Regulation (EU) 2016/679 art. 83(5).

Relief Requested Should be Granted

18. Sufficient cause exists here for the Debtors to file under seal and to redact those portions of the Sealed Documents containing (a) the names and addresses of the Debtors' customers (the "**Commercial Information**"), and (b) names and home addresses for any of the Debtors' individual creditors (including the Debtors' current and former employees) who (i) are in the United Kingdom, Ireland, or other EU member countries, (ii) may reside in those countries, or (iii) may otherwise be subject to the protections of the GDPR or other similar foreign privacy laws, and (c) the home addresses of the Debtors' North American current and former employees ((b) and (c) together, the "**Personal Information**").

A. Commercial Information

19. Cause exists to file under seal and to redact the Commercial Information because such information constitutes "commercial information" within the meaning of section 107(b) of the Bankruptcy Code. The Debtors operate in a highly competitive learning management system software and learning content industry. Indeed, the Debtors have experienced customer attrition in recent years due to increased competition driven in part by the entry of global enterprise technology competitors into the Debtors' market. *See* First Day Declaration ¶ 33. As such, in the ordinary course of business, the Debtors closely guard their customer lists and treat such lists as confidential, proprietary trade secrets. *See In re Altegrity, Inc.*, 2015 WL 10963572, at *4 (debtors treated the identity of their customers as confidential). The Debtors' contracts with their customers also generally contain confidentiality provisions that limit the Debtors' ability to disclose the

nature of their relationship with their customers.[3] *See id.* (debtors' customer relationships were subject to confidentiality agreements). Failure to comply with those provisions could harm the Debtors' relationships with their customers at a critical juncture in the Debtors' restructuring efforts and hinder the Debtors' chapter 11 messaging with their customers.

20. If filed publicly on the Court's docket, therefore, the Commercial Information would provide the Debtors' competitors: (a) a clear picture of who the Debtors' customers are, including those persons and entities who show a willingness to purchase software of the type offered by the Debtors; (b) the locations within the customer's operations where they interface with the Debtors; and (c) insight into the scope and type of work in which the Debtors and the customers are engaged. This would enable competitors to strategically target the Debtors' customers and attempt to secure them as their own. Accordingly, disclosure of such Commercial Information, particularly at this juncture, could severely impact the Debtors' ongoing business, put the Debtors at an enormous competitive disadvantage, and undermine their ability to reorganize in chapter 11. *See, e.g.*, *In re Altegrity, Inc.*, 2015 WL 10963572, at *4; *In re Northstar Energy, Inc.*, 315 B.R. at 429–30. Like other recent cases, the Debtors seek to redact their customers' identities to maintain the lifeblood of the Debtors' business and prevent attrition and harm to their estates. *See, e.g.*, *In re CTI Foods, LLC*, No. 19–10497 (CSS) (Bankr. D. Del. Mar. 12, 2019) (D.I. 69) (authorizing redaction of customer information on creditor matrix and related affidavits of service); *In re CST Indus. Holdings, Inc.*, No. 17–11292 (BLS) (Bankr. D. Del. Sept. 15, 2017) (D.I. 465) (authorizing redaction of customer information on debtors' schedules and related

[3] That notwithstanding, from time to time the Company may ask certain customers for permission or authorization to identify such organizations as customers on the Company's website or in other sales and marketing materials. The permission or authorization granted is generally restricted to the limited purpose allowed by the Company's contract with, or in a separate written authorization from, the customer.

affidavits of service); *In re Lensar, Inc.*, No. 16–12808 (MFW) (Bankr. D. Del. Jan. 30, 2017) (D.I. 126) (same).

21. Accordingly, the Debtors respectfully submit that good cause exists for the Court to grant them leave to file under seal and to redact those portions of the Sealed Documents containing the Commercial Information.

B. Personal Information

22. Cause also exists to authorize the Debtors to file under seal and to redact the Personal Information in the Sealed Documents.

23. First, the restrictions of the GDPR may apply to at least some of the Debtors, and thereby provide cause to redact the Personal Information. The GDPR applies to "a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not." General Data Protection Regulation (EU) 2016/679 art. 3(1). It also applies to processing the Personal Information of data subjects who are in the EU, even though the processor may not be, if the processing is related to the offering of goods or services within the EU. *See id.* art. 3(2). Accordingly, due to their organization in EU member states and significant operations in Europe, many of the Debtors could be subject to the restrictions of the GDPR. Disclosure of protected information (i.e., personal data) in violation of the GDPR falls within the very "unlawful injury" against which section 107(c) of the Bankruptcy Code seeks to protect. As noted above, the Debtors filed these chapter 11 cases to effectuate a restructuring through the Prepackaged Plan with minimal disruption to their businesses. This includes disruptions to those persons associated with the Debtors' business: their employees and individual customers or creditors. Failure to properly protect Personal Information in accordance with the GDPR also exposes the Debtors (and their estates) to a real risk of specific, quantifiable economic penalties, to say nothing of the reputational

harm that could result from the Debtors' customers, suppliers, or employees learning of such a breach. This is a risk that the Debtors, as a global, cross-border business, cannot take.

24. Second, failure to properly redact the creditor matrix will result in the public disclosure of the home addresses of the North American Debtors' current and former employees, which the Debtors respectfully submit is sensitive information. This information could be used to, among other things, perpetuate identity theft, stalk the Debtors' employees, or locate an employee of the Debtors who may be a survivor of domestic violence. Although the Debtors are not currently aware of any such incidents affecting their employees, the human risk is not speculative, which this Court has acknowledged in several recent cases. *See, e.g.*, Jan. 22, 2020 Hr'g Tr. at 24:21–25, *In re Clover Techs. Grp., LLC*, Case No. 19–12680 (KBO) (Bankr. D. Del. Jan. 24, 2020) (D.I. 146) ("To me it is common sense. I don't need evidence that there is, at best, a risk of identity theft and worse a risk of personal injury from listing someone's name and address on the internet by way of the court's electronic case filing system and, of course, the claims agent's website."); Mar. 10, 2020 Hr'g Tr. at 25:6–7, 25:21–22 *In re Art Van Furniture, LLC*, Case No. 20–10553 (CSS) (Bankr. D. Del. Mar. 11, 2020) (D.I. 82) ("I really don't view it as a burden of proof as much as a common sense issue" and noting "identity theft happens, it happens all the time"). Indeed, in one recent chapter 11 case, the abusive former partner of a debtor's employee was able to track down the employee to her new address using the address information in the publicly-filed documents in the chapter 11 case. *See* Motion ¶ 7, *In re Charming Charlie Holdings Inc.*, Case No. 19–11534 (CSS) (Bankr. D. Del. July 11, 2019) (D.I. 4) (describing incident).

25. Accordingly, the Debtors respectfully submit that good cause exists for the Court to grant them leave to file under seal and to redact those portions of the Sealed Documents containing the Commercial Information and/or the Personal Information.

26. As noted above, the Sealed Documents are not limited to the Creditor Matrix but also include the Prospective Sealed Documents. The Debtors anticipate that, in connection with these chapter 11 cases, other documents will be filed that may include some or all of the Commercial Information and/or Personal Information. These could include, for example, affidavits or certificates of service, and the Debtors schedules of assets and liabilities. Accordingly, the Debtors respectfully request that the Court authorize the Debtors to redact and file under seal any filing during these chapter 11 cases that contains any of the Commercial Information or the Personal Information. To be clear, to the extent the Debtors wish to file under seal information that does not comprise the Commercial Information or Personal Information, even within a document otherwise containing Commercial Information or Personal Information, the Debtors will file a separate motion for authority to seal that information.

27. The Debtors will provide un-redacted versions of the Sealed Documents to the Court pursuant to Local Rule 9018-1 and will provide un-redacted versions of the Sealed Documents, on a confidential, professionals' eyes only basis, to the following parties: (a) the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**") and (b) counsel to any statutory committee appointed in these chapter 11 cases (collectively, the "**Receiving Parties**").

Compliance with Local Rule 9018-1(d)(ii)

28. To the best of the knowledge, information and belief of the undersigned proposed counsel to the Debtors, the Sealed Documents do not contain information subject to the Confidentiality Rights of another Holder of Confidentiality Rights (each as defined in Local Rule 9018-1(d)(iii)). Notwithstanding the foregoing, if there are any such Confidentiality Rights, then undersigned counsel respectfully certifies that they are unable to confer with all Holders of such Confidentiality Rights and that attempting to confer with all known or potential Holders of

Confidentiality Rights would be futile due to the significant number of such Holders with respect to this Motion.

Notice

29. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. and Christina M. Brown, Esq.); (iv) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq., Benjamin M. Schak, Esq. and Sarah Levin, Esq.); (v) counsel to Wilmington Savings Fund Society, FSB ("**WSFS**"), in its capacity as First Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vi) counsel WSFS, in its capacity as Second Lien Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (vii) counsel to WSFS, in its capacity as DIP Agent, Seward & Kissel LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Gregg S. Bateman, Esq.); (viii) counsel to CIT Bank, N.A., in its capacity as AR Facility Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201 (Attn: Samuel Pinkston); (ix) the Internal Revenue Service; (x) the United States Attorney's Office for the District of Delaware; (xi) the Securities and Exchange Commission; and (xii) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"). As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of the Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

30. The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

[*remainder of page intentionally left blank*]

WHEREFORE the Debtors respectfully request entry of the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 14, 2020
Wilmington, Delaware

/s/ Mark D. Collins

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Proposed Attorneys for Debtors
and Debtors in Possession

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**
	:	**Re: D.I. ____**

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact (a) certain

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

portions of their Creditor Matrix containing the Commercial Information and/or the Personal Information and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents. The Commercial Information and the Personal Information

shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Interim Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Sealed Documents on a confidential basis to the Court, the U.S. Trustee, and counsel to any statutory committee appointed in these chapter 11 cases.

4. The Debtors and any party authorized to receive copies of the un-redacted Sealed Documents and the Commercial Information and the Personal Information contained therein pursuant to this Interim Order shall be authorized and directed, subject to Local Rule 9018-1(d) and (e), to (a) redact specific references to the Commercial Information and the Personal Information from pleadings and other documents filed on the public docket maintained in these chapter 11 cases, and (b) not use or refer to any Commercial Information and Personal Information in any hearing without first consulting with the Debtors and the Court as to how to make use of such Commercial Information and Personal Information at the hearing while maintaining its confidentiality; *provided, however,* that nothing in this Interim Order shall authorize the Debtors or any other party to seal or redact information in any retention application filed in these chapter 11 cases, absent further order of the Court.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personal Information is sealed or redacted pursuant to this Interim Order or any final order on the Motion. Service of all documents and notices upon individuals whose Personal Information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service. The Debtors shall provide the Personal Information to any party in interest that files a motion that indicates the reason such information is needed and that, after notice and a hearing, is granted by the Court.

6. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **_____, 2020, at _____ (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing and filed with the Court by **[●], 2020 at 4:00 p.m. (prevailing Eastern Time)**, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)); and (ii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (christina.brown@gibsondunn.com)), (iii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iv) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)).

7. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Interim Order.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20– _____ ( )**
Debtors.[1]	:	**(Joint Administration Requested)**
	:	**Re: D.I. ____**

FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact (a) certain

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

portions of their Creditor Matrix containing the Commercial Information and/or the Personal Information and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing, if necessary, to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing, if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Motion is granted on a final basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents. The Commercial Information and the Personal Information

shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other than as provided in Paragraph 3 of this Final Order, without further order of this Court.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Sealed Documents on a confidential basis to the Court, the U.S. Trustee, and counsel to any statutory committee appointed in these chapter 11 cases.

4. The Debtors and any party authorized to receive copies of the un-redacted Sealed Documents and the Commercial Information and the Personal Information contained therein pursuant to this Final Order shall be authorized and directed, subject to Local Rule 9018-1(d) and (e), to (a) redact specific references to the Commercial Information and the Personal Information from pleadings and other documents filed on the public docket maintained in these chapter 11 cases, and (b) not use or refer to any Commercial Information and Personal Information in any hearing without first consulting with the Debtors and the Court as to how to make use of such Commercial Information and Personal Information at the hearing while maintaining its confidentiality; *provided, however,* that nothing in this Final Order shall authorize the Debtors or any other party to seal or redact information in any retention application filed in these chapter 11 cases, absent further order of the Court.

5. Nothing in this Final Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personal Information is sealed or redacted pursuant to this Final Order. Service of all documents and notices upon individuals whose Personal Information is sealed or redacted pursuant to this Final Order shall be confirmed in the corresponding certificate of service. The Debtors shall provide the Personal Information to any party in interest that files a motion that indicates the reason such information is needed and that, after notice and a hearing, is granted by the Court.

6. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

7. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Final Order.

8. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2020
Wilmington, Delaware

_____
UNITED STATES BANKRUPTCY JUDGE

TAB VV

Interim Order Pursuant to 11 U.S.C. Sections 105 and 107, Fed. R. Bankr. P. 9018 and Del. Bankr. L.R. 9018-1 Authorizing the Debtors to File (I) Portions of the Creditor Matrix Under Seal and (II) the Commercial Information and the Personal Information in Future Filings Under Seal

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	:	
	:	**Chapter 11**
SKILLSOFT CORPORATION, *et al.*	:	**Case No. 20–11532 (MFW)**
Debtors.[1]	:	**(Jointly Administered)**
	:	**Re: D.I. 8**

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 107, FED. R. BANKR. P. 9018 AND DEL. BANKR. L.R. 9018-1 AUTHORIZING THE DEBTORS TO FILE (I) PORTIONS OF THE CREDITOR MATRIX UNDER SEAL AND (II) THE COMMERCIAL INFORMATION AND THE PERSONAL INFORMATION IN FUTURE FILINGS UNDER SEAL

Upon the motion (the "**Motion**")[2] of Skillsoft Corporation ("**Skillsoft**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), for entry of an order pursuant to sections 105(a) and 107(b) and (c) of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "**Local Rules**") authorizing the Debtors to file under seal and to redact (a) certain

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Skillsoft Corporation (6115); Amber Holding Inc. (0335); SumTotal Systems LLC (7228); MindLeaders, Inc. (6072); Accero, Inc. (4684); CyberShift Holdings, Inc. (2109); CyberShift, Inc. (U.S.) (0586); Pointwell Limited; SSI Investments I Limited; SSI Investments II Limited; SSI Investments III Limited; Skillsoft Limited; Skillsoft Ireland Limited; ThirdForce Group Limited; Skillsoft U.K. Limited; and Skillsoft Canada, Ltd. The location of the Debtors' corporate U.S. headquarters is 300 Innovative Way, Suite 201, Nashua, NH 03062.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

portions of their Creditor Matrix containing the Commercial Information and/or the Personal Information and (b) certain portions of future filings containing the Commercial Information and/or the Personal Information, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the First Day Declaration and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis to the extent set forth herein.

2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1 to file those portions of the Sealed Documents containing Commercial Information and/or Personal Information under seal and to redact such Commercial Information and/or Personal Information in the publicly-filed versions of the Sealed Documents. The Commercial Information and the Personal Information shall be filed under seal, shall remain confidential, and shall not be made available to anyone, other

than as provided in Paragraph 3 of this Interim Order, without further order of this Court; *provided,* that any customer name and address that is otherwise made publicly available in connection with a pleading in this Court or on the Company's website shall not be deemed Commercial Information.

3. In accordance with Local Rule 9018-1, the Debtors shall provide un-redacted versions of the Sealed Documents on a confidential basis to the Court, the U.S. Trustee, and counsel to any statutory committee appointed in these chapter 11 cases.

4. The Debtors and any party authorized to receive copies of the un-redacted Sealed Documents and the Commercial Information and the Personal Information contained therein pursuant to this Interim Order shall be authorized and directed, subject to Local Rule 9018-1(d) and (e), to (a) redact specific references to the Commercial Information and the Personal Information from pleadings and other documents filed on the public docket maintained in these chapter 11 cases, and (b) not use or refer to any Commercial Information and Personal Information in any hearing without first consulting with the Debtors and the Court as to how to make use of such Commercial Information and Personal Information at the hearing while maintaining its confidentiality; *provided, however,* that nothing in this Interim Order shall authorize the Debtors or any other party to seal or redact information in any retention application filed in these chapter 11 cases, absent further order of the Court.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personal Information is sealed or redacted pursuant to this Interim Order or any final order on the Motion. Service of all documents and notices upon individuals whose Personal Information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service. The Debtors shall

provide the Personal Information to any party in interest that files a motion that indicates the reason such information is needed and that, after notice and a hearing, is granted by the Court.

6. A hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on **July 7, 2020, at 2:00 p.m. (prevailing Eastern Time)** and any objections or responses to the Motion shall be in writing and filed with the Court by **June 30, 2020 at 4:00 p.m. (prevailing Eastern Time)**, and served in accordance with Local Rules 5005-4 and 9036-1 upon the following parties: (i) the proposed attorneys for the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq. (gary.holtzer@weil.com); Robert J. Lemons, Esq. (robert.lemons@weil.com); and Katherine Theresa Lewis, Esq. (katherine.lewis@weil.com)) and (b) Richards, Layton & Finger, P.A., One Rodney Square, 910 N. King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins. Esq. (collins@rlf.com) and Amanda R. Steele, Esq. (steele@rlf.com)); and (ii) counsel to the Ad Hoc First Lien Group, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166 (Attn: Scott J. Greenberg, Esq. (sgreenberg@gibsondunn.com) and Christina M. Brown, Esq. (christina.brown@gibsondunn.com)), (iii) counsel to the Ad Hoc Crossholder Group, Milbank LLP, 55 Hudson Yards, New York, NY 10001 (Attn: Evan R. Fleck, Esq. (efleck@milbank.com), Benjamin M. Schak, Esq. (bschak@milbank.com), and Sarah Levin, Esq. (slevin@milbank.com)) and (iv) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware, 19801 (Attn: Jane Leamy, Esq. (jane.m.leamy@usdoj.gov)).

7. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Interim Order.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

Dated: June 17th, 2020
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT "K"

Consent of Richter Advisory Group Inc. to act as Information Officer

(*See attached*)

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF SAINT JOHN
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF SKILLSOFT CANADA, LTD. ET AL.

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

CONSENT TO ACT AS INFORMATION OFFICER

Richter Advisory Group Inc. hereby consents to act as information officer in the above noted proceedings pursuant to the *Companies' Creditors Arrangement Act* and to the terms of the form of Supplemental Order (Foreign Main Proceeding) filed in respect of same.

DATED this 16th day of June, 2020.

RICHTER ADVISORY GROUP INC.

Per: Olivier Benchaya, CPA, CA, CIRP, LIT

TAB 3

Pre-Hearing Brief of the Applicant

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

PRE-HEARING BRIEF OF THE APPLICANT
(Returnable June 18, 2020)

June 17, 2020

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Counsel to the Applicant

TO: The Respondents

The Service List

Court File No. _____

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

BETWEEN:

SKILLSOFT CANADA, LTD.

APPLICANT

-and-

SKILLSOFT CORPORATION, AMBER HOLDING INC., SUMTOTAL SYSTEMS LLC, MINDLEADERS, INC., ACCERO, INC., CYBERSHIFT HOLDINGS, INC., CYBERSHIFT, INC. (U.S.), POINTWELL LIMITED, SSI INVESTMENTS I LIMITED, SSI INVESTMENTS II LIMITED, SSI INVESTMENTS III LIMITED, SKILLSOFT LIMITED, SKILLSOFT IRELAND LIMITED, THIRDFORCE GROUP LIMITED, SKILLSOFT U.K. LIMITED AND SKILLSOFT CANADA, LTD.

RESPONDENTS

APPLICATION OF SKILLSOFT CANADA, LTD. UNDER PART IV OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

PRE-HEARING BRIEF OF THE APPLICANT (RETURNABLE JUNE 18, 2020)

PART I - OVERVIEW

1. This Pre-Hearing Brief is filed in support of an application by Skillsoft Canada, Ltd. ("**Skillsoft Canada**" or the "**Applicant**") in its capacity as the foreign representative of itself and of Skillsoft Corporation, Amber Holding Inc., Sumtotal Systems LLC, Mindleaders, Inc., Accero, Inc., Cybershift Holdings, Inc., Cybershift, Inc. (U.S.), Pointwell Limited, SSI Investments I Limited, SSI Investments II Limited, SSI Investments III Limited, Skillsoft Limited, Skillsoft Ireland Limited, Thirdforce Group Limited and Skillsoft U.K. Limited (collectively, the "**Chapter 11 Debtors**" and each, a "**Chapter 11 Debtor**"), companies that each commenced a case (the "**Chapter 11 Cases**") on June 14, 2020 (the "**Petition Date**") by filing voluntary petitions (the "**Petitions**") for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") with the United States Bankruptcy Court for the District of Delaware (the "**US Court**", and such proceedings in the US Court, the "**US Proceedings**"), for recognition of the US Proceedings as a foreign main proceeding and other relief under Part IV of the *Companies' Creditors Arrangement Act* (the "**CCAA**").

2. Firstly, the Applicant seeks an order (the "**Initial Recognition Order**"), substantially in the form of the draft order attached at **Exhibit "A"** of the affidavit of John Frederick dated June 17, 2020, and filed in support of the present Application (the "**Frederick Affidavit**"; Tab 2 to the Application Record), for, *inter alia*:

(a) a declaration that Skillsoft Canada is a "foreign representative" as defined in section 45 of the CCAA in respect of the US Proceedings and is entitled to bring this Application pursuant to section 46 of the CCAA;

(b) recognition of the US Proceedings and a declaration that the US Proceedings are a "foreign main proceeding" pursuant to section 47 of the CCAA; and

(c) a stay of proceedings.

3. Secondly, the Applicant seeks an order (the "**Supplemental Order**"), substantially in the form of the draft order attached at **Exhibit "B"** of the Frederick Affidavit (Tab 2 to the Application Record), for, *inter alia*:

(a) a declaration that certain First Day Orders (as defined below), including the Interim DIP Order (as defined below), made in the US Proceedings have full force and effect in all provinces and territories of Canada;

(b) the appointment of Richter Advisory Group Inc. ("**Richter**") as the information officer (the "**Information Officer**") in connection with this proceeding;

(c) an Administration Charge and a DIP Lenders' Charge (each as defined below) on the assets, property and undertakings of the Chapter 11 Debtors in Canada (the "**Property**"); and

(d) additional relief, of a nature that is customary in the context of recognition proceedings under Part IV of the CCAA.

PART II - THE FACTS[1]

A. OVERVIEW OF THE COMPANY'S BUSINESS AND OPERATIONS

4. The facts with respect to this Application are briefly summarized below and are more fully set out in the Frederick Affidavit, the *Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (the "**Frederick Declaration**"; **Exhibit "C"** to the Frederick Affidavit, Tab 2 to the Application Record), the Declaration of Christopher A. Wilson in support of the Interim DIP Motion (as defined in the Frederick Affidavit) (**Exhibit "D"** to the Frederick Affidavit, Tab 2 to the Application Record), the *Supplemental Declaration of John Frederick In Support of Debtors' Chapter 11 Petitions and First Day Relief* (**Exhibit "E"** to the Frederick Affidavit, Tab 2 to the Application Record) and the *First Report of the Proposed Information Officer* dated June 17, 2020 and filed in support of the present Application.

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[1] Capitalized terms used but not otherwise defined in this Pre-Hearing Brief shall have the meaning ascribed to such terms in the Frederick Affidavit. All references to currency in this Pre-Hearing Brief are to US dollars, unless otherwise noted.

5. Skillsoft Corporation, a corporation duly incorporated under the laws of Delaware ("**Skillsoft**" and, together with Chapter 11 Debtor Pointwell Limited and the direct and indirect subsidiaries of Pointwell Limited, the "**Company**") is a learning and talent management enterprise software company that develops and provides learning management system software and learning content assets, serving thousands of organizations across the globe.

- *Frederick Affidavit* at para 8, Application Record, Tab 2.

6. The Company's North American headquarters are located in Nashua, New Hampshire (the "**Company's Headquarters**"). The Company operates in eleven (11) countries and has a total of approximately 2,200 employees worldwide.

- *Frederick Affidavit* at para 11, Application Record, Tab 2.

7. The Company's operations are mainly carried out in the United States, where its main business and corporate decisions are taken.

- *Frederick Affidavit* at para 13, Application Record, Tab 2.

8. The Company utilizes shared services across the globe. Shared services include functions such as human resources, finance, legal affairs, information technology, marketing, sales operations, and business applications. Shared services are predominantly administered from the Company's Headquarters, where approximately 45% of the shared services are administered.

- *Frederick Affidavit* at para 14, Application Record, Tab 2.

9. The Company also uses an integrated, centralized cash management system operated by the treasury team in the United States to collect, transfer and disburse funds generated by, and to fund the operation of, the Company (the "**Cash Management System**").

- *Frederick Affidavit* at para 15, Application Record, Tab 2.

10. Almost half of the Company's human resources employees, including its Chief People Officer, and the majority of the Company's assets are located in the United States.

- *Frederick Affidavit* at paras 17-18, Application Record, Tab 2.

11. The Chapter 11 Debtors form part of the Company's corporate group and are incorporated either in the United States, in Canada, in Ireland or in the United Kingdom.

- *Frederick Affidavit* at para 19, Application Record, Tab 2.

12. As of the Petition Date, the Company's funded debt totaled approximately $2.1 billion.

- *Frederick Affidavit* at para 20, Application Record, Tab 2.

B. THE COMPANY'S CONNECTION WITH CANADA

13. Among the Chapter 11 Debtors is Skillsoft Canada, a company incorporated pursuant to the *Business Corporations Act* (New Brunswick), with a registered and physical office in Fredericton, New Brunswick.

- Skillsoft Canada's information card from the New Brunswick Corporate Affairs Registry (**Exhibit "G"** to the *Frederick Affidavit*, Application Record, Tab 2)
- *Frederick Affidavit* at para 26, Application Record, Tab 2.

14. Skillsoft Canada provides cloud-based learning solutions and talent management solutions for customers ranging from global enterprises, government, and educational institutions to mid-sized and small businesses and currently employs a total of 259 employees, of which 229 are located in Fredericton, New Brunswick, with the balance working remotely. These employees are non-unionized and Skillsoft Canada does not sponsor any pension plans for its employees.

- *Frederick Affidavit* at paras 27-28, Application Record, Tab 2.

15. Skillsoft Canada is a borrower and a guarantor under certain pre-filing credit facilities, namely:

(a) a borrower and a guarantor of the First Lien Credit Agreement under which in excess of $1.3 billion is outstanding;

(b) a guarantor of the Second Lien Credit Agreement under which approximately $670 million principal amount is outstanding; and

(c) an "Originator" under the AR Facility Agreement under which approximately $68 million is outstanding.

- *Frederick Affidavit* at paras 31-40, Application Record, Tab 2.

C. THE COMPANY'S FINANCIAL DIFFICULTIES

16. As more fully described in the Frederick Affidavit and the Frederick Declaration, due to a variety of factors, including the increased competitiveness of the human capital management and enterprise e-learning markets and the adverse near-term business consequences from the macroeconomic effects of the COVID-19 pandemic, the Company suffered a decline in revenue and faces short term liquidity issues.

- *Frederick Affidavit* at paras 21-25, Application Record, Tab 2.

17. To address its financial difficulties caused by shifting market conditions and prior to the severe complications caused by the COVID-19 pandemic, the Company conducted a comprehensive review of its business model and, in April 2019, launched a transformation plan aimed at stabilizing the business. This plan produced positive results; however, these results alone were insufficient for the Company to surmount its financial challenges.

- *Frederick Affidavit* at paras 23-24, Application Record, Tab 2.

D. THE COMPANY'S RESTRUCTURING

i. Pre-Filing Efforts

18. In the months leading up to the commencement of the Chapter 11 Cases and with the goal of stabilizing and improving the Company's business, as well as to allow further time for negotiations among the Company's stakeholders to bear fruit, the Company, with the assistance of its advisors, *inter alia*:

(a) maximized the use of its existing sources of credit in order to increase liquidity;

(b) launched a holistic, competitive marketing process for the sale of the Company's SumTotal business; and

(c) proactively engaged its key stakeholders, including entering in forbearance agreements with its principal secured lenders, to negotiate with the latter a comprehensive, consensual restructuring.

- *Frederick Affidavit* at para 41, Application Record, Tab 2.

19. In the past several weeks, faced with mounting debt service payments and decreased order intake and trade contraction attributable to the COVID-19 pandemic, the Company's liquidity has tightened, and it was close to falling below the minimum liquidity cushion that Company management and advisors have deemed necessary for the Company to continue operating its business in the ordinary course. These short-term liquidity issues precipitated the commencement of the Chapter 11 Cases.

- *Frederick Affidavit* at para 42, Application Record, Tab 2.

ii. Restructuring Support Agreement and Prepackaged Plan

20. On June 12, 2020, following extensive efforts and negotiations between the Company, its advisors and its principal secured lenders, a *Restructuring Support Agreement* (as amended from time to time and including all exhibits thereto, the "**RSA**") was executed pursuant to which a vast majority of the Company's principal secured lenders (collectively, the "**Consenting Creditors**") have agreed, subject to the terms and conditions of the RSA, to vote in favor of the *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors* (the "**Prepackaged Plan**"), and provide certain additional liquidity to the Chapter 11 Debtors both during the Chapter 11 Cases and upon emergence.

- *Frederick Affidavit* at para 43, Application Record, Tab 2.

21. The terms of the Chapter 11 Debtors' restructuring are reflected in the Prepackaged Plan which will effect, upon its full implementation, a significant deleveraging of the Chapter 11

Debtors' capital structure by eliminating approximately USD $1.5 billion in principal amount of funded debt. Of significant importance for the purposes of this Application, it is not anticipated that the obligations owing to Skillsoft Canada's trade creditors or employees will be affected under the Prepackaged Plan.

- *Frederick Affidavit* at paras 44 and 47, Application Record, Tab 2.

iii. Debtor-in-Possession Financing

22. Pursuant to that certain *Secured Super-Priority Term Loan Debtor-In-Possession Loan Agreement* to be entered into (as may be amended, restated, supplemented, amended and restated, waived or otherwise modified from time to time, the "**DIP Credit Agreement**"), certain of the Company's First Lien Lenders (in such capacity, the "**DIP Lenders**") have agreed to provide a $60 million debtor-in-possession credit facility (the "**DIP Financing**") to provide incremental liquidity to help fund the costs of the Chapter 11 Debtors' restructuring. The DIP Lenders have also agreed to provide the Company with exit financing, which consists of (i) $60 million to be used to fund the outstanding DIP Financing obligations and (ii) $50 million of incremental liquidity to the Company on the Effective Date (as defined in the Prepackaged Plan).

- *Frederick Affidavit* at para 48, Application Record, Tab 2.

23. In light of their liquidity issues, the Chapter 11 Debtors required immediate access to debtor-in-possession financing to ensure they have sufficient working capital to operate their businesses and to administer their estates. The DIP Financing is essential to ensure that the Chapter 11 Debtors have the liquidity necessary to, among other things, fund payroll and satisfy their working capital and general corporate requirements. Access to sufficient working capital and liquidity is necessary and vital to ensure the Chapter 11 Debtors' ability to operate their businesses prudently during the Chapter 11 Cases and the present Canadian recognition proceedings.

- *Frederick Affidavit* at paras 49 and 52, Application Record, Tab 2.

24. On June 16, 2020, the US Court granted, as part of the First Day Orders, the *Interim Order (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief* attached at Tab "NN" of the US Compendium (the "**Interim DIP Order**"), which, *inter alia*, (i) authorized the Chapter 11 Debtors to enter into the DIP Credit Agreement and (ii) granted to the DIP Agent (as defined in the Interim DIP Order), for the benefit of the DIP Lenders to secure the obligations under the DIP Financing, valid, enforceable, binding, non-avoidable, and fully perfected first priority priming liens on and senior security interests in substantially all of the property of the Chapter 11 Debtors, including the property of Skillsoft Canada.

iv. Negotiations with a Potential Third Party Purchaser

25. In addition to the foregoing, the Company, with the support of the Consenting Creditors, has entered into an exclusivity agreement with a potential third party purchaser of substantially all of the Company's business and is continuing negotiations with this party regarding a potential Alternative Transaction (as defined in the RSA).

- *Frederick Affidavit* at para 54, Application Record, Tab 2.

26. If the ongoing negotiations with the third party are ultimately successful, the Company may seek to amend, *inter alia*, the Prepackaged Plan (to the extent it obtains the support of the Consenting Creditors) to reflect the Alternative Transaction prior to the Prepackaged Plan's confirmation hearing before the US Court.

- *Frederick Affidavit* at para 56, Application Record, Tab 2.

E. CURRENT STATUS OF THE CHAPTER 11 CASES

27. On the Petition Date, each of the Chapter 11 Debtors commenced the Chapter 11 Cases by filing the Petitions for relief under the Bankruptcy Code with the US Court.

28. Contemporaneously with or shortly following the filing of the Petitions in the Chapter 11 Cases, the Chapter 11 Debtors filed first day motions (the "**First Day Motions**") with the US Court.

29. On June 16, 2020, the US Court entered various orders in respect of the First Day Motions (the "**First Day Orders**"), which First Day Orders are attached at **Exhibit "J"** to the Frederick Affidavit (Application Record, Tab 2).

30. Pursuant to the terms of the RSA and the DIP Credit Agreement, Skillsoft Canada, in its capacity as foreign representative of itself and the other Chapter 11 Debtors, is required to commence before this Court the present recognition proceedings under Part IV of the CCAA and to seek the issuance of the Initial Recognition Order and Supplemental Order. The granting of the Initial Recognition Order and Supplemental Order by this Court is a condition precedent to the effectiveness of the Prepackaged Plan.

- *Restructuring Support Agreement*, **Exhibit "H"** to the *Frederick Affidavit,* Application Record, Tab 2.

31. Accordingly, pursuant to the *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* (the "**Foreign Representative Order**") attached at Tab "X" of the US Compendium (**Exhibit "J"** to the Frederick Affidavit, Application Record, Tab 2), Skillsoft Canada was appointed by the US Court to act as "foreign representative" on behalf of the Chapter 11 Debtors in the present Canadian recognition proceedings.

PART III - ISSUES

32. The issues before this Court, as addressed below, are:

(a) Is New Brunswick the proper jurisdiction for these recognition proceedings?

(b) Should this Court recognize the US Proceedings as a "foreign main proceeding" pursuant to Part IV of the CCAA?

(c) Should the Initial Recognition Order be granted, which, *inter alia*:

(i) declares that Skillsoft Canada is a "foreign representative";

(ii) recognizes and declares that the US Proceedings are a foreign main proceeding pursuant to s. 47 of the CCAA; and

(iii) grants a stay of proceedings.

(d) Should the Supplemental Order be granted, which, *inter alia*:

(i) declares that the First Day Orders, including the Interim DIP Order, made in the US Proceedings have full force and effect in all provinces and territories of Canada;

(ii) appoints Richter as the Information Officer in connection with this proceeding;

(iii) grants an Administration Charge and a DIP Lenders' Charge on the Property; and

(iv) grants additional relief, of a nature that is customary in the context of recognition proceedings under Part IV of the CCAA.

PART IV - THE LAW

A. NEW BRUNSWICK IS THE PROPER JURISDICTION FOR THESE PROCEEDINGS

33. New Brunswick is the proper jurisdiction for these recognition proceedings in Canada.

34. Pursuant to s. 9(1) of the CCAA, an application under the CCAA is to be made:

> […] to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.

- CCAA, s. 9(1).

35. Skillsoft Canada is a company incorporated pursuant to the *Business Corporations Act* (New Brunswick), with its registered and physical office in Fredericton, New Brunswick.

- Skillsoft Canada's information card from the New Brunswick Corporate Affairs Registry (**Exhibit "G"** to the *Frederick Affidavit*, Application Record, Tab 2).

36. Skillsoft Canada also conducts its business operations in New Brunswick and employs a total of 259 employees, of which 229 employees are located in Fredericton, with the balance working remotely.

- *Frederick Affidavit* at para 28, Application Record, Tab 2.

37. Accordingly, New Brunswick is the proper jurisdiction for these recognition proceedings in Canada.

B. THE US PROCEEDINGS SHOULD BE RECOGNIZED

38. Part IV of the CCAA is founded on the *UNCITRAL Model Law on Cross-Border Insolvency (1997)*. It establishes a process for addressing the administration of cross-border and multi-national insolvencies in a coordinated and cooperative manner with foreign courts.

- CCAA, s. 44.

39. The underlying basis of Part IV of the CCAA is the principle of comity and cooperation between courts of various jurisdictions, whereby a Canadian court will accord respect to "the overall thrust of foreign bankruptcy and insolvency legislation in any analysis, unless in substance generally it is so different from the bankruptcy and insolvency law of Canada or perhaps because the legal process that generates the foreign order diverges radically from the process here in Canada." Cooperation between courts under Part IV of the CCAA promotes the "fair and efficient administration of cross-border insolvencies" and the "protection and maximization of the value of the debtors' property."

- CCAA, s. 44.

- *Babcock & Wilcox Canada Ltd., Re,* 2000 CanLII 22482 (ON SC) at para 21 (CanLII).
- *MtGox Co., Ltd. (Re),* 2014 ONSC 5811 at paras 10-12 (CanLII).

i. The Criteria of "Foreign Proceeding" and "Foreign Representative" are Satisfied

40. Pursuant to section 46(1) of the CCAA, a foreign representative may apply to the court for recognition of a foreign proceeding in respect of which that person is a foreign representative.

- CCAA, s. 46(1).

41. Section 47(1) of the CCAA provides that the Court shall make an order recognizing a foreign insolvency proceeding if two requirements are met: (i) the proceeding is a "foreign proceeding"; and (ii) the applicant is a "foreign representative".

- CCAA, s. 47(1).

(a) The US Proceedings are a "Foreign Proceeding"

42. Section 45(1) of the CCAA defines a "foreign proceeding" as follows:

> […] a judicial or an administrative proceeding, including an interim proceeding, in a jurisdiction outside Canada dealing with creditors' collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company's business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization.

- CCAA, s. 45(1), "foreign proceeding".

43. Canadian courts have consistently recognized proceedings under the Bankruptcy Code as foreign proceedings for the purposes of the CCAA.

- *Hollander Sleep Products, LLC et al.*, Re, 2019 ONSC 3238 at para 27 [**Hollander**] (CanLII).
- *Purdue Pharma L.P., Re*., 2019 ONSC 7042 [**Purdue**] (CanLII).
- *Ultra Petroleum Corp*., 2017 YKSC 9 (CanLII).

- *Probe Resources Ltd. (Re)*, 2011 BCSC 552 [**Probe**] (CanLII).
- *Gyro-Trac (USA) Inc. et Raymond Chabot inc.*, 2010 QCCS 1311 (CanLII).

44. The US Proceedings satisfy the criteria of a "foreign proceeding." They are judicial proceedings in a foreign jurisdiction being conducted under the supervision of the US Court pursuant to the Bankruptcy Code, and they are "for the purpose of reorganization".

45. In this case, the Chapter 11 Debtors have already presented a reorganization plan, the Prepackaged Plan, to their principal secured creditors. The Prepackaged Plan sets out the terms of the Chapter 11 Debtors' restructuring and reorganization to allow them to continue funding their operations and emerge from the US Proceedings with a significantly de-leveraged capital structure.

- *Frederick Affidavit* at paras 43-44, Application Record, Tab 2.
- *Joint Prepackaged Plan of Reorganization of Skillsoft Corporation and its Affiliates Debtors* (**Exhibit "I"** to the *Frederick Affidavit*, Application Record, Tab 2)

46. Based on the foregoing, the US Proceedings are a "foreign proceeding" for the purposes of section 45(1) of the CCAA.

(b) The Applicant is a "Foreign Representative"

47. The second requirement under section 47 of the CCAA is that the Applicant be a "foreign representative" in respect of the foreign proceeding. A "foreign representative" is defined as:

> […] a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding respect of a debtor company, to
>
> > (a) monitor the debtor company's business and financial affairs for the purpose of reorganization; or
> >
> > (b) act as a representative in respect of the foreign proceeding.

- CCAA, s. 45(1), "foreign representative".

48. In the present instance, Skillsoft Canada meets the definition in section 45(1) of the CCAA as it has been authorized by the US Court to act as the Chapter 11 Debtors' representative in respect of the present Canadian recognition proceedings.

- *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached at Tab "X" of the US Compendium (**Exhibit "J"** to the *Frederick Affidavit*, Application Record, Tab 2).

49. Pursuant to the foregoing, the US Proceedings are a "foreign proceeding" and the Applicant is a "foreign representative". Accordingly, it is submitted that this Court should recognize the US Proceedings as a "foreign proceeding" within the meaning of section 47(1) of the CCAA.

ii. The US Proceedings are a "Foreign Main Proceeding"

50. If the Court grants an order under section 47(1) of the CCAA, section 47(2) of the CCAA requires that the Court specify whether the foreign proceeding is a "foreign main proceeding" or a "foreign non-main proceeding". If a foreign proceeding is recognized as a "foreign main proceeding", then the Court shall make an order staying any action, suit or proceeding against the debtor(s) in Canada by operation of section 48(1) of the CCAA.

- CCAA, s. 47(1), 47(2) and 48(1).

51. Section 45(1) of the CCAA provides that a "foreign main proceeding" is a foreign proceeding in a jurisdiction where the debtor company has the "centre of its main interests" ("**COMI**").

- CCAA, s. 45(1).

52. The CCAA does not provide a definition of COMI; however, section 45(2) of the CCAA establishes that, in the absence of proof to the contrary, the location of a debtor company's registered office is deemed to be its COMI.

- CCAA, s. 45(2).

53. The presumption created by section 45(2) CCAA to the effect that the COMI is located at the debtor's registered office "can be rebutted if there are factors which, viewed objectively by third parties, would lead to the conclusion that the centre of main interest is other than at the location of the registered office".

- *Probe*, *supra* at para 21 (CanLII).

54. When determining whether the section 45(2) CCAA presumption has been rebutted, the following main factors have been considered by Canadian courts:

(a) the location of the debtor's headquarters or head office functions or nerve centre;

(b) the location of the debtor's management; and

(c) the location which significant creditors recognize as being the centre of the company's operations.

- *Massachusetts Elephant &* Castle *Group, Inc. (Re)*, 2011 ONSC 4201 at para 30 [**Elephant & Castle**] (CanLII).

- *Hollander*, *supra* at para 33 (CanLII).

55. In addition to the above principal factors, Canadian courts have made reference to the following factors in conducting the COMI analysis:

(a) The location where corporate decisions are made;

(b) The location of employee administrations, including human resource functions;

(c) The location of the company's marketing and communication functions;

(d) Whether the enterprise is managed on a consolidated basis;

(e) The extent of integration of an enterprise's international operations;

(f) The centre of an enterprise's corporate, banking, strategic and management functions;

(g) The existence of shared management within entities and in an organization;

(h) The location where cash management and accounting functions are overseen;

(i) The location where pricing decisions and new business development initiatives are created; and

(j) The seat of an enterprise's treasury management functions, including management of accounts receivable and accounts payable.

- *Hollander*, *supra* at para 32 (CanLII).
- *Elephant & Castle, supra* at paras 26-28 (CanLII).
- *Angiotech Pharmaceuticals Ltd. (Re),* 2011 BCSC 115 at para 7 (CanLII).

56. While Skillsoft Canada's registered office is in Canada, and several other Chapter 11 Debtors have their registered offices outside of the United States, the evidence is clear that each Chapter 11 Debtor's (including Skillsoft Canada's) COMI is in the United States, notwithstanding the location of its registered office, namely:

(a) The Chapter 11 Debtors' operations are mainly carried out in the United States and the main business and corporate decisions in respect of the Chapter 11 Debtors, including Skillsoft Canada, are made in that jurisdiction;

(b) The Chapter 11 Debtors operate shared services across the globe, which include functions such as human resources, finance, legal affairs, information technology, marketing, sales operations, and business applications. The most significant location where shared services are administered is the Company's Headquarters in the United States, where approximately 45% of the shared services are administered;

(c) The Chapter 11 Debtors use an integrated, centralized Cash Management System operated by the treasury team in the United States to collect, transfer and disburse funds generated by them, including among others, Skillsoft Canada;

(d) Within the Company, almost half of the human resources employees, including the Company's Chief People Officer, are based in the Company's Headquarters;

(e) There are no senior management personnel employed by Skillsoft Canada or located in Canada;

(f) All of Skillsoft Canada's accounts payable and accounts receivable are managed from the Company's Headquarters;

(g) The majority of the Company's assets are located in the United States;

(h) The Chapter 11 Debtors' assets and operations are highly interconnected with the Company's global operations and are mainly situated and conducted in the United States;

(i) Skillsoft Canada's directors and a significant portion of the other Chapter 11 Debtors' directors reside in the United States;

(j) The location that significant creditors of the Chapter 11 Debtors recognize as being the center of the Company's operations is the United States, as appears from the support provided to the relief sought in the present proceedings by the principal secured creditors of the Chapter 11 Debtors; and

(k) Pursuant to the Foreign Representative Order, the US Court requested, *inter alia*, the aid and assistance of the Canadian Court to recognize the Chapter 11 Cases as a "foreign main proceeding".

- *Order Authorizing Skillsoft Canada, Ltd. to Act as Foreign Representative on Behalf of the Debtors' Estates pursuant to 11 U.S.C. § 1505* attached at Tab "X" of the US Compendium (**Exhibit "J"** to the *Frederick Affidavit*).
- *Frederick Affidavit* at paras 11, 13-18 and 64-71, Application Record, Tab 2.
- *First Report of the Proposed Information Officer* at paras 41-42 and 45-46.

57. Canadian courts have on several occasions found that debtor companies with registered offices in Canada, but which are part of a centrally-managed and integrated corporate structure based in the United States, have their COMI in the United States.

- *Lightsquared LP (Re),* 2012 ONSC 2994 at para 31 [**Lightsquared**] (CanLII).
- *Elephant & Castle,* supra at para 32 (CanLII).

- *Re Xerium Technologies Inc.,* 2010 ONSC 3974 at para 27 (CanLII).
- *Hollander,* supra at paras 35-36 (CanLII).

58. Based on the foregoing, the Applicant submits that the COMI of Skillsoft Canada and each Chapter 11 Debtor is in the United States and, accordingly, the US Proceedings should be recognized as a "foreign main proceeding".

C. THE INITIAL RECOGNITION ORDER AND SUPPLEMENTAL ORDER SHOULD BE GRANTED

59. The Applicant submits that the Initial Recognition Order and Supplemental Order (collectively, the "**Orders**") recognizing the US Proceedings as a foreign main proceeding and granting related relief should be granted by this Court. Included in the Orders are, among other things:

(a) a stay of proceedings in favour of the Chapter 11 Debtors;

(b) the appointment of the Information Officer;

(c) the recognition of the First Day Orders in Canada, including the Interim DIP Order; and

(d) the granting of an Administration Charge and a DIP Lenders' Charge on the Property.

60. Skillsoft Canada submits that this honourable Court should exercise its discretion to grant such relief.

i. A Stay of Proceedings is Required and Appropriate

61. A stay of proceedings and customary related relief consistent with a model CCAA initial order in Canada is necessary to ensure the proper and efficient administration of the Chapter 11 Debtors' reorganization efforts. Refusal to grant this relief would endanger these efforts not

only in Canada, but also in the United States, and would frustrate the purpose of Part IV of the CCAA.

- *Hollander, supra* at para 41 (CanLII).
- *Purdue, supra* at para 21 (CanLII).

62. Section 48(1) of the CCAA provides that once the Court has found that a foreign proceeding is a "foreign main proceeding", it is required to grant certain relief, including a stay of proceedings.

- CCAA, s. 48(1).
- *Hollander, supra* at para 37 (CanLII).

63. In addition to the stay relief provided for in section 48 of the CCAA, section 49 of the CCAA grants this Court with the broad discretion to make any order that it considers appropriate, if it is satisfied that the order is necessary for the protection of the debtor company's property or the interests of creditors. The Court may make such orders on any terms and conditions that the Court considers appropriate in the circumstances.

- CCAA, s. 49(1) and 50.
- *Hollander, supra* at para 38 (CanLII).

64. Finally, section 52(1) of the CCAA requires that if an order recognizing a foreign proceedings is made, the Court "shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding."

- CCAA, s. 52(1).
- *Hollander, supra* at paras 41-42 (CanLII).
- *Purdue, supra* at para 21 (CanLII).

65. In light of the requirements of the CCAA and the exigencies of the circumstances facing the Chapter 11 Debtors, it is appropriate to grant a stay of proceedings and customary

relief consistent with a model CCAA initial order to facilitate the Chapter 11 Debtors' reorganization.

ii. Richter Should Be Appointed Information Officer

66. Courts have previously used the broad discretion granted to them under section 49(1) of the CCAA to appoint information officers. Section 50 of the CCAA requires that any such orders be made on "terms and conditions that the court considers appropriate in the circumstances".

- *Lightsquared, supra* at paras 35, 37 (CanLII).
- *Hollander, supra* at para 55 (CanLII).
- CCAA s. 49(1).
- CCAA, s. 50.

67. An information officer helps effect cooperation between the Canadian foreign recognition proceeding and the foreign representative and foreign court, as required by section 52(1) of the CCAA.

- CCAA, s. 52(1).
- *Digital Domain Media Group Inc. (Re),* 2012 BCSC 1565 at para 32 (CanLII).

68. The Applicant seeks to appoint Richter as the Information Officer in this proceeding. Richter is a certified trustee in bankruptcy in Canada, and its principals have acted as information officers in several previous ancillary proceedings. Richter has consented to act as the Information Officer.

- *Frederick Affidavit* at paras 87-88, Application Record, Tab 2.
- Richter's Consent (**Exhibit "K"** to the *Frederick Affidavit*, Application Record, Tab 2).

69. The Information Officer will facilitate cooperation between this Court and the US Court. The Information Officer will also provide information to the Court, creditors and stakeholders as is necessary and appropriate in a cross-border restructuring.

- *Frederick Affidavit* at para 88, Application Record, Tab 2.

70. The Information Officer will file reports with the Court prior to each hearing, informing the Court, *inter alia*, of matters affecting Canadian stakeholders and of any material developments in the Chapter 11 Debtors' restructuring in the United States.

- *Frederick Affidavit* at para 89, Application Record, Tab 2.

71. It is appropriate for the Court to exercise its discretion and appoint Richter as the Information Officer in this proceeding.

iii. The First Day Orders Should Be Recognized

72. Canadian Courts have previously used the broad discretion granted to them under section 49(1) of the CCAA to recognize orders rendered by foreign Courts in the context of the "foreign main proceedings".

- *Lightsquared, supra* at paras 35, 36 (CanLII).
- *Hollander, supra* at para 43 (CanLII).
- CCAA, s. 49(1).

73. The recognition of the First Day Orders is necessary to ensure the proper and efficient administration of the Chapter 11 Debtors' reorganization efforts and consistent treatment as between stakeholders in the United States and Canada. The recognition of the First Day Orders is also appropriate in the circumstances, given that:

(a) the US Court has appropriately taken jurisdiction over the Chapter 11 Cases, so comity will be furthered by this Court's recognition of and support for the Chapter 11 Cases already under way in the United States;

(b) coordination of proceedings in the United States and Canada will ensure equal and fair treatment of all stakeholders;

(c) it is reasonable and sensible for the US Court to have principal control over the insolvency process given the close connection between the Chapter 11 Debtors and the United States. This principal control will produce the most efficient restructuring for the benefit of all stakeholders;

(d) it is imperative that there be a centralized and coordinated process for these insolvency proceedings to maximize the prospect of a successful restructuring and preserve value for stakeholders; and

(e) the Chapter 11 Debtors' operations are highly integrated.

- *Hollander, supra* at para 43 (CanLII).

74. Therefore, it is appropriate for this Court to exercise its discretion and declare that the First Day Orders rendered in the US Proceedings have full force and effect in all provinces and territories of Canada.

iv. <u>The Administration Charge Should Be Granted</u>

75. The Applicant is seeking a first-ranking charge on the Property in the maximum amount of CAD$150,000 to secure the fees and disbursements of the proposed Information Officer and its counsel in connection with services rendered in the present Canadian recognition proceedings (the "**Administration Charge**").

- *Frederick Affidavit* at para 73, Application Record, Tab 2.

76. The Administration Charge is proposed to rank in priority to any other security interest, trust, lien, charge and encumbrance on the Property, including the DIP Lenders' Charge.

- *Frederick Affidavit* at para 74, Application Record, Tab 2.

77. The Applicant has worked with the proposed Information Officer to estimate the proposed quantum of the Administration Charge. The proposed Information Officer has

reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the complexities of the Chapter 11 Debtors' CCAA recognition proceedings and the services to be provided by the beneficiaries of the Administration Charge.

- *Frederick Affidavit* at paras 75-76, Application Record, Tab 2.
- *First Report of the Proposed Information Officer* at para 82.

78. Section 11.52 of the CCAA provides statutory jurisdiction to grant such a charge:

> **11.52(1) Court may order security or charge to cover certain costs** — On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of
>
> > (a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;
> >
> > (b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and
> >
> > (c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.
>
> **11.52(2) Priority** — This court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

- CCAA, s. 11.52.

79. In *Canwest Publishing*, Pepall J. identified six non-exhaustive factors that the Court may consider in addition to section 11.52 of the CCAA when determining whether to grant an administration charge:

(a) the size and complexity of the business being restructured;

(b) the proposed role of the beneficiaries of the charge;

(c) whether there is an unwarranted duplication of roles;

(d) whether the quantum of the proposed charge appears to be fair and reasonable;

(e) the position of the secured creditors likely to be affected by the charge; and

(f) the position of the monitor.

- *Canwest Publishing Inc, Re*, 2010 ONSC 222 at para 54 (CanLII).

80. In the present matter, the following factors support the granting of the Administration Charge as requested:

(a) the proposed restructuring involves cross-border matters, which will require the extensive involvement of the Information Officer and its counsel, who will not only will facilitate cooperation between this Court and the US Court, but also file reports with the Court prior to each hearing, informing the Court and stakeholders, *inter alia*, of matters affecting the Canadian stakeholders and of any material developments in the Chapter 11 Debtors' restructuring in the United States;

(b) there is no anticipated unwarranted duplication of roles;

(c) the Administration Charge will rank in priority to the DIP Lenders' Charge and any existing secured creditors, all of whom were provided with notice that Skillsoft Canada was commencing this Application for recognition proceedings pursuant to the CCAA; and

(d) the Information Officer supports the Administration Charge and its proposed quantum.

- *Frederick Affidavit* at paras 73-77 and 87-90, Application Record, Tab 2.

- *First Report of the Proposed Information Officer* at para 82.

81. In light of the above, the Applicant submits that the Administration Charge sought should be granted by this Court.

v. Interim DIP Financing and DIP Charge

82. In addition to the above, the Applicant is seeking from this Court:

(a) the recognition of the Interim DIP Order in Canada; and

(b) the granting of a super-priority charge in favour of the Collateral Agent (as defined in the DIP Credit Agreement), for and on behalf of itself, the Administrative Agent (as defined in the DIP Credit Agreement) and the DIP Lenders on the Property (the "**DIP Lenders' Charge**") in these proceedings as security for the obligations of the Chapter 11 Debtors under the DIP Financing.

(a) Recognition of the Interim DIP Order

83. As mentioned above, Canadian Courts have previously used the broad discretion granted to them under section 49(1) of the CCAA to recognize orders rendered by foreign Courts in the context of the "foreign main proceedings".

- *Lightsquared, supra* at paras 35, 36 (CanLII).
- *Hollander, supra* at para 43 (CanLII).
- CCAA, s. 49(1).

84. The recognition of the Interim DIP Order is necessary to ensure the proper and efficient administration of the Chapter 11 Debtors' reorganization efforts. The recognition of the Interim DIP Order is also appropriate in the circumstances given that:

(a) immediate access to incremental liquidity pursuant to the DIP Financing is critical to maximizing value and facilitating a going-concern restructuring. Without immediate access to DIP Financing, the Chapter 11 Debtors, including Skillsoft Canada, would face significant near term liquidity challenges and their ability to operate their business in the normal course while seeking to implement the Prepackaged Plan would be undermined, thereby harming the

Chapter 11 Debtors' ability to preserve and maximize value for the benefit of their stakeholders, including the stakeholders of Skillsoft Canada;

(b) the DIP Financing represents the best available option for the Chapter 11 Debtors to address their short-term liquidity challenges and will maximize value in the circumstances;

(c) the Company, with guidance from its advisors, actively negotiated the terms of the DIP Financing proposal and was able to obtain concessions from the DIP Lenders on a number of key provisions. The Chapter 11 Debtors ultimately obtained a reasonable proposal from the DIP Lenders that meets the Company's liquidity needs at this critical juncture;

(d) the Chapter 11 Debtors, in consultation with their professionals, reviewed and analyzed their projected cash needs and prepared an initial analysis of the amount of cash that would be reasonably required to complete the prepackaged Chapter 11 Cases (including these recognition proceedings). Based on this analysis, the Chapter 11 Debtors determined they would be unable to fund their restructuring efforts with cash on hand and would need incremental liquidity in the form of DIP Financing;

(e) while the only borrower under the DIP Financing is Skillsoft, the DIP Credit Agreement contemplates that the obligations under the DIP Financing will be jointly and severally guaranteed by certain of Skillsoft's subsidiaries and affiliates, including Skillsoft Canada. Although Skillsoft Canada is not a borrower under the DIP Financing, it is contemplated that the proceeds of the loans under the DIP Financing may provide working capital for (among others) all of the Chapter 11 Debtors, including Skillsoft Canada, as well as to fund the expenses of these proceedings;

(f) Skillsoft Canada is a borrower under the First Lien Credit Agreement and a guarantor of the First Lien Borrowers' obligations thereunder, as well as a guarantor of the Second Lien Borrowers' obligations under the Second Lien Credit Agreement, and, as such, Skillsoft Canada's assets are already significantly encumbered. Nevertheless, the vast majority of the First Lien Lenders and Second Lien Lenders have agreed to support the Chapter 11 Debtors' restructuring proceedings, including the terms of the DIP Financing, as contemplated by the RSA;

(g) It is contemplated that the obligations owing to Skillsoft Canada's trade creditors and employees will not be affected by the Prepackaged Plan or by the issuance of the DIP Lender's Charge over Skillsoft Canada's assets;

(h) the DIP Lenders are a subset of the First Lien Lenders;

(i) the recognition of the Interim DIP Order is a milestone pursuant to the DIP Financing, and is also required pursuant to the terms of the DIP Credit Agreement; and

(j) if the requested relief is not granted, the entire restructuring of the Chapter 11 Debtors will be jeopardized. As Skillsoft Canada's operations are wholly intertwined with those of the other Chapter 11 Debtors, Skillsoft Canada's continued viability will be negatively impacted.

- *Frederick Affidavit* at para 49-53, 79-83, 86 Application Record, Tab 2.
- *Restructuring Support Agreement*, **Exhibit "H"** to the *Frederick Affidavit,* Application Record, Tab 2.

85. In addition, Canadian courts have emphasized the importance of avoiding second-guessing the decision of a United States court which has approved DIP financing after having

considered the interests of all the parties. Recognizing a United States court-approved DIP financing accords with the principle of comity which is at the heart of Part IV of the CCAA.

- *Hollander, supra* at paras 47-48 (CanLII).
- *Hartford Computer Hardware, Inc. (Re),* 2012 ONSC 964 at paras 12, 14 (CanLII).

86. It is appropriate for this Court to exercise its discretion and declare that the Interim DIP Order rendered by the US Court has full force and effect in all provinces and territories of Canada.

(b) Granting of the DIP Lender's Charge

87. Pursuant to the RSA and the DIP Credit Agreement, Skillsoft Canada is required to seek the DIP Lenders' Charge in these proceedings as security for the obligations of the Chapter 11 Debtors under the DIP Financing.

- *Restructuring Support Agreement*, **Exhibit "H"** to the *Frederick Affidavit,* Application Record, Tab 2.

88. It is proposed that the DIP Lenders' Charge will constitute a charge on the Property that will rank in priority to all claims of any nature or kind against the Property, subject only to the Administration Charge.

89. This Court's authority to authorize funding in the context of a CCAA restructuring is found in sections 11.2(1) and 11.2(2) of the CCAA, which expressly permit the granting of a charge over the property of a debtor that ranks in priority to the claims of any secured creditor.

- CCAA, s. 11.2(1) and 11.2(2).

90. In considering whether to approve DIP financing secured by a priority charge, the Court is to consider the non-exhaustive list of factors set out in s. 11.2(4) of the CCAA:

> **Factors to be considered**
>
> 11.2 (4) In deciding whether to make an order, the court is to consider, among other things,
>
> (a) the period during which the company is expected to be subject to proceedings under this Act;
>
> (b) how the company's business and financial affairs are to be managed during the proceedings;
>
> (c) whether the company's management has the confidence of its major creditors;
>
> (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
>
> (e) the nature and value of the company's property;
>
> (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
>
> (g) the monitor's report referred to in paragraph 23(1)(b), if any.

- CCAA, s. 11.2(4).

91. Canadian Courts frequently exercise their authority to approve DIP financing that is secured by a priority charge on the debtor company's assets. A recent post-November 2019 case where the Court has approved DIP financing is *Re Clover Leaf Holdings Company*.

- *Re Clover Leaf Holdings Company*, 2019 ONSC 6966 at paras 20-23 (CanLII).

92. Based on the following factors, the DIP Lenders' Charge should be approved:

(a) the DIP Lenders' Charge is necessary in order for the Chapter 11 Debtors to obtain incremental financing pursuant to the DIP Financing to finance their restructuring proceedings and implement the Prepackaged Plan;

(b) the Information Officer is supportive of the DIP Lenders' Charge;

(c) there is no "roll-up" contemplated by the DIP Credit Agreement and, as such, the DIP Lenders' Charge does not secure an obligation that existed before the Chapter 11 Cases;

(d) the granting of the DIP Lenders' Charge is consistent with this Court's proposed recognition of the Interim DIP Order and an extension of comity in that regard;

(e) the granting of the DIP Lenders' Charge is a condition precedent to the effectiveness of the Prepackaged Plan, and is also required pursuant to the terms of the DIP Credit Agreement; and

(f) the Applicant has provided notice of the proposed DIP Lenders' Charge to affected secured creditors as required under s. 11.2(1) of the CCAA.

- *Frederick Affidavit* at para 86, Application Record, Tab 2.
- *Restructuring Support Agreement*, **Exhibit "H"** to the *Frederick Affidavit,* Application Record, Tab 2.
- *First Report of the Proposed Information Officer* at para 85.

93. Moreover, key factors distinguish this case from *Payless Holdings Inc. LLC, (Re)*[2], in which Regional Senior Justice Morawetz (as he then was) of the Ontario Superior Court of Justice declined to approve a DIP order and lenders' charge in the context of a proceeding under Part IV of the CCAA.

94. In *Payless*, the DIP order and lenders' charge sought would have required the solvent Canadian applicants to guarantee borrowings from the DIP facility even though they would not receive advances from it. The DIP facility was opposed by the Canadian landlords who were prejudiced by its terms.

95. The Court's decision in *Payless* is distinguishable from this case for the following reasons:

(a) In *Payless*, the Canadian applicants were not insolvent, were not prepetition borrowers, had never granted security and were not borrowers under the DIP facility. In this case:

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[2] *Payless Holdings LLC (Re)*, 2017 ONSC 2321 (CanLII).

(i) Skillsoft Canada is insolvent;

(ii) Skillsoft Canada is a prepetition borrower and/or guarantor under the First Lien Credit Agreement, the Second Lien Credit Agreement and the AR Facility Agreement;

(iii) Skillsoft Canada's assets are already significantly encumbered in connection with the above noted credit facilities;

(iv) Skillsoft Canada will benefit from the DIP Financing, as it is contemplated that the proceeds of the loans under the DIP Financing may be utilized to providing working capital for (among others) all of the Chapter 11 Debtors, including Skillsoft Canada, as well as to fund the expenses of these proceedings;

(b) In *Payless*, there was evidence of material prejudice to Canadian creditors and certain Canadian creditors opposed the DIP order because they were disadvantaged. In this case, no such material prejudice or unequal treatment exists with respect to the creditors of Skillsoft Canada or the other Chapter 11 Debtors. To the contrary:

(i) the principal secured lenders of the Chapter 11 Debtors, including Skillsoft Canada, support the present Application and the granting of the DIP Lenders' Charge; and

(ii) it is not anticipated that the obligations owing to Skillsoft Canada's trade creditors or employees will be affected under the Prepackaged Plan.

- *Frederick Affidavit* at paras 21-40, 43-47 and 80 Application Record, Tab 2.
- *Hollander, supra* at paras 52-53 (CanLII).

96. Therefore, it is appropriate and reasonable to grant the DIP Lenders' Charge in the present circumstances.

PART V - ORDER SOUGHT

97. For the foregoing reasons, the Applicant requests that this Honourable Court grant the Initial Recognition Order and Supplemental Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 17th day of June, 2020.

Stikeman Elliott

STIKEMAN ELLIOTT LLP
Counsel to the Applicant

SCHEDULE "A"
LIST OF AUTHORITIES

1. *Babcock & Wilcox Canada Ltd.*, Re, 2000 CanLII 22482 (ON SC) (CanLII)
2. *MtGox Co., Ltd. (Re)*, 2014 ONSC 5811 (CanLII)
3. *Hollander Sleep Products, LLC et al., Re*, 2019 ONSC 3238 (CanLII)
4. *Purdue Pharma L.P., Re.*, 2019 ONSC 7042 (CanLII)
5. *Ultra Petroleum Corp*., 2017 YKSC 9 (CanLII)
6. *Probe Resources Ltd. (Re)*, 2011 BCSC 552 (CanLII)
7. *Gyro-Trac (USA) Inc. et Raymond Chabot inc.*, 2010 QCCS 1311 (CanLII)
8. *Massachusetts Elephant & Castle Group, Inc. (Re)*, 2011 ONSC 4201 (CanLII)
9. *Angiotech Pharmaceuticals Ltd. (Re)*, 2011 BCSC 115 (CanLII)
10. *Lightsquared LP (Re)*, 2012 ONSC 2994 (CanLII)
11. *Re Xerium Technologies Inc.*, 2010 ONSC 3974 (CanLII)
12. *Canwest Publishing Inc, Re*, 2010 ONSC 222 (CanLII)
13. *Hartford Computer Hardware, Inc. (Re)*, 2012 ONSC 964 (CanLII)
14. *Re Clover Leaf Holdings Company*, 2019 ONSC 6966 (CanLII)
15. *Payless Holdings LLC (Re)*, 2017 ONSC 2321 (CanLII)
16. *Digital Domain Media Group Inc. (Re)*, 2012 BCSC 1565 (CanLII)

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SCHEDULE "B"
RELEVANT STATUTES

***Companies' Creditors Arrangement Act*, RSC 1985, c C-36:**

Jurisdiction of court to receive applications

9 *(1) Any application under this Act may be made to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.*

Interim financing

11.2 *(1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.*

Priority — secured creditors

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Priority — other orders

(3) The court may order that the security or charge rank in priority over any security or charge arising from a previous order made under subsection (1) only with the consent of the person in whose favour the previous order was made.

Factors to be considered

(4) In deciding whether to make an order, the court is to consider, among other things,

> *(a) the period during which the company is expected to be subject to proceedings under this Act;*
>
> *(b) how the company's business and financial affairs are to be managed during the proceedings;*
>
> *(c) whether the company's management has the confidence of its major creditors;*
>
> *(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;*
>
> *(e) the nature and value of the company's property;*
>
> *(f) whether any creditor would be materially prejudiced as a result of the security or charge; and*

(g) the monitor's report referred to in paragraph 23(1)(b), if any.

Additional factor — initial application

(5) When an application is made under subsection (1) at the same time as an initial application referred to in subsection 11.02(1) or during the period referred to in an order made under that subsection, no order shall be made under subsection (1) unless the court is also satisfied that the terms of the loan are limited to what is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Court may order security or charge to cover certain costs

11.52 *(1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of*

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

PART IV

Cross-border Insolvencies

Purpose

Purpose

44 *The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote*

(a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;

(b) greater legal certainty for trade and investment;

(c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;

(d) the protection and the maximization of the value of debtor company's property; and

(e) the rescue of financially troubled businesses to protect investment and preserve employment.

2005, c. 47, s. 131

Interpretation

Definitions

45 *(1) The following definitions apply in this Part.*

foreign court means a judicial or other authority competent to control or supervise a foreign proceeding. (tribunal étranger)

foreign main proceeding means a foreign proceeding in a jurisdiction where the debtor company has the centre of its main interests. (principale)

foreign non-main proceeding means a foreign proceeding, other than a foreign main proceeding. (secondaire)

foreign proceeding means a judicial or an administrative proceeding, including an interim proceeding, in a jurisdiction outside Canada dealing with creditors' collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company's business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization. (instance étrangère)

foreign representative means a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding respect of a debtor company, to

(a) monitor the debtor company's business and financial affairs for the purpose of reorganization; or

(b) act as a representative in respect of the foreign proceeding. (représentant étranger)

Centre of debtor company's main interests

(2) For the purposes of this Part, in the absence of proof to the contrary, a debtor company's registered office is deemed to be the centre of its main interests.

2005, c. 47, s. 131

Recognition of Foreign Proceeding

Application for recognition of a foreign proceeding

46 *(1) A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.*

Documents that must accompany application

(2) Subject to subsection (3), the application must be accompanied by

(a) a certified copy of the instrument, however designated, that commenced the foreign proceeding or a certificate from the foreign court affirming the existence of the foreign proceeding;

(b) a certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative's authority to act in that capacity; and

(c) a statement identifying all foreign proceedings in respect of the debtor company that are known to the foreign representative.

Documents may be considered as proof

(3) The court may, without further proof, accept the documents referred to in paragraphs (2)(a) and (b) as evidence that the proceeding to which they relate is a foreign proceeding and that the applicant is a foreign representative in respect of the foreign proceeding.

Other evidence

(4) In the absence of the documents referred to in paragraphs (2)(a) and (b), the court may accept any other evidence of the existence of the foreign proceeding and of the foreign represent-ative's authority that it considers appropriate.

Translation

(5) The court may require a translation of any document accompanying the application.

2005, c. 47, s. 131

Order recognizing foreign proceeding

47 *(1) If the court is satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, the court shall make an order recognizing the foreign proceeding.*

Nature of foreign proceeding to be specified

(2) The court shall specify in the order whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding.

2005, c. 47, s. 131

Order relating to recognition of a foreign main proceeding

48 *(1) Subject to subsections (2) to (4), on the making of an order recognizing a foreign proceeding that is specified to be a foreign main proceeding, the court shall make an order, subject to any terms and conditions it considers appropriate,*

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken against the debtor company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the debtor company;

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the debtor company; and

(d) prohibiting the debtor company from selling or otherwise disposing of, outside the ordinary course of its business, any of the debtor company's property in Canada that relates to the business and prohibiting the debtor company from selling or otherwise disposing of any of its other property in Canada.

Scope of order

(2) The order made under subsection (1) must be consistent with any order that may be made under this Act.

When subsection (1) does not apply

(3) Subsection (1) does not apply if any proceedings under this Act have been commenced in respect of the debtor company at the time the order recognizing the foreign proceeding is made.

Application of this and other Acts

(4) Nothing in subsection (1) precludes the debtor company from commencing or continuing proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

2005, c. 47, s. 131

Other orders

49 *(1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order*

(a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);

(b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and

(c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Restriction

(2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

Application of this and other Acts

(3) The making of an order under paragraph (1)(a) does not preclude the commencement or the continuation of proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

2005, c. 47, s. 131

Terms and conditions of orders

50 *An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.*

2005, c. 47, s. 131

Commencement or continuation of proceedings

51 *If an order is made recognizing a foreign proceeding, the foreign representative may commence and continue proceedings under this Act in respect of a debtor company as if the foreign representative were a creditor of the debtor company, or the debtor company, as the case may be.*

2005, c. 47, s. 131

Obligations

Cooperation — court

52 *(1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.*

Cooperation — other authorities in Canada

(2) If any proceedings under this Act have been commenced in respect of a debtor company and an order recognizing a foreign proceeding is made in respect of the debtor company, every person who exercises powers or performs duties and functions under the proceedings under this Act shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Forms of cooperation

(3) For the purpose of this section, cooperation may be provided by any appropriate means, including

(a) the appointment of a person to act at the direction of the court;

(b) the communication of information by any means considered appropriate by the court;

(c) the coordination of the administration and supervision of the debtor company's assets and affairs;

(d) the approval or implementation by courts of agreements concerning the coordination of proceedings; and

(e) the coordination of concurrent proceedings regarding the same debtor company.

2005, c. 47, s. 131 2007, c. 36, s. 80

Obligations of foreign representative

53 *If an order recognizing a foreign proceeding is made, the foreign representative who applied for the order shall*

(a) without delay, inform the court of

(i) any substantial change in the status of the recognized foreign proceeding,

(ii) any substantial change in the status of the foreign representative's authority to act in that capacity, and

(iii) any other foreign proceeding in respect of the same debtor company that becomes known to the foreign representa-tive; and

(b) publish, without delay after the order is made, once a week for two consecutive weeks, or as otherwise directed by the court, in one or more newspapers in Canada specified by the court, a notice containing the prescribed information.

Court not prevented from applying certain rules

61 (1) Nothing in this Part prevents the court, on the application of a foreign represent-ative or any other interested person, from applying any legal or equitable rules governing the recognition of foreign insolvency orders and assistance to foreign representatives that are not inconsistent with the provisions of this Act.

Public policy exception

(2) Nothing in this Part prevents the court from refusing to do something that would be contrary to public policy.

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF SKILLSOFT CANADA LTD. ET AL.

APPLICATION UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. _____

New Brunswick
COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
(TRIAL DIVISION)
Proceeding commenced at Saint John

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